

APPENDIX G

COMMENTS AND RESPONSES

PREFACE

The Draft Environmental Assessment and Tribal Environmental Impact Report (EA/TEIR) for the Pauma Casino and Hotel was circulated for public review from August 8, 2007 through September 21, 2007. Twenty-six letters were received. Thirteen agencies and organizations who submitted comment letters included the U.S. Fish and Wildlife Service, State Clearinghouse, California Department of Transportation (Caltrans), Office of the Governor, SANDAG, County of San Diego, Pala Pauma Sponsor Group, Valley Center Community Planning Group, North County Transit District, Palomar Observatory, San Luis Rey Municipal Water District, Palomar Mountain Planning Organization, and Endangered Habitats League. Thirteen letters were received from individuals, and comment slips were submitted by six individuals following a public meeting held on August 28, 2007. A letter dated October 4, 2007 from the North County Inland Regional Leadership to the Office of the Governor was received and is also attached. A total of 234 specific comments are identified. This appendix to the Final EA/TEIR provides all comment letters with their specific comments numbered consecutively 1 through 234, followed by the responses.

The State Clearinghouse letter does not address the adequacy of the EA/TEIR, but states that the Tribe "has complied with the State Clearinghouse's review requirements for draft environmental documents." The State Clearinghouse submitted the Draft EA/TEIR to, minimally, the following 13 California agencies: Caltrans, Division of Aeronautics; Caltrans, District 11; California Highway Patrol; Department of Conservation; Department of Fish and Game, Region 5; Cal Fire; Native American Heritage Commission; Office of Emergency Services; Department of Parks and Recreation; Regional Water Quality Control Board, Region 9; Resources Agency; State Water Resources Control Board, Division of Water Rights; and the California Department of Justice, Attorney General's Office. Only Caltrans District 11 provided comments.

As indicated in the responses, no adverse significant impacts will result from the project and the Tribe is committed to ensure that all appropriate design and mitigation measures are implemented.

COMMENT LETTERS AND NUMBERS

<u>Letter</u>	<u>Comment Numbers</u>
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North County Inland Regional Leadership, October 4, 2007	231-234

COMMENT LETTERS



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
Carlsbad Fish and Wildlife Office
6010 Hidden Valley Road
Carlsbad, California 92011



In Reply Refer To:
FWS-SDG-5475.1

SEP 18 2007

Mr. Bradley Mehaffy, REM, CIPS
NEPA Compliance Officer
EPHS Program Manager
National Indian Gaming Commission
1441 L Street, N.W., 9th Floor
Washington, D.C. 20005

Re: Comments on the Draft Environmental Assessment and Tribal Environmental Impact Report for the Pauma Casino and Hotel, San Diego County, California

Dear Mr. Mehaffy:

The U.S. Fish and Wildlife Service (Service) has reviewed the draft Environmental Assessment and Tribal Environmental Impact Report (EA/TEIR), dated July 27, 2007, for the above-referenced project. The comments provided herein are based on our review of the draft EA/TEIR, the Biological Resources Report (prepared by Tierra Environmental Services) dated June 22, 2007, the Service's knowledge of sensitive and declining vegetation communities in San Diego County, and our participation in regional conservation planning efforts.

The primary concern and mandate of the Service is the protection of public fish and wildlife resources and their habitats. The Service has legal responsibility for the welfare of migratory birds, anadromous fish, and endangered animals and plants occurring in the United States. The Service is also responsible for administering the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

The proposed project site is located on 65.7 acres of Tribal trust land northeast of State Route 76 (SR-76) about eleven miles east of Interstate 15 (I-15), in San Diego County, California. The proposed project would include the construction of a new casino with an 83,100-square foot gaming area, area for multiple food and beverage venues, retail, cage, player rewards, public circulation, and restrooms. A 23-story hotel with 384 rooms would be constructed adjacent to the casino. Additionally, 16 villa suites would be constructed at ground level. Other facilities to be constructed include: a luxury spa; pool and gardens; 15,000-seat multi-purpose events center; conference and meeting facilities; approximately 105,000 square feet of administration and back-of-house area; operations, and shipping and receiving; a six-floor 1,500-space parking garage; and approximately 2,400 surface parking spaces. Three water wells and an estimated 1,000,000-gallon water reservoir would be constructed, and the existing wastewater treatment facility would be expanded. In addition, improvements would be made to the SR-76/Pauma Reservation Road

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intersection.

The project site is currently composed of seven habitat types, disturbed coastal sage scrub (CSS), fresh water marsh (FWM), mule fat scrub (MFS), developed (DEVL), ornamental (ORN), agriculture (AG), and disturbed (DIST). No federally listed threatened or endangered species are known from or expected to occur on or adjacent to the project site.

The Service appreciates the opportunity to comment on the draft EA/TEIR for the proposed project. We offer the following recommendations and comments to assist the Tribe and the National Gaming Commission in minimizing and mitigating project impacts to biological resources:

1. The draft EA/TEIR indicates that the proposed project includes the construction of three new wells that would be capable of producing 211,000 gallons per day of groundwater beyond what is currently being pumped from existing wells on the Reservation. We are concerned about the potential indirect effects of the project-related groundwater extraction on sensitive flora, fauna, and habitats within the area of potential effect of the groundwater pumping.

The final EA/TEIR should address the potential effects to sensitive species and habitats that may result from the proposed groundwater extraction. In this regard, the final EA/TEIR or supplemental reports should specifically but not exclusively:

- a. provide a baseline of the sensitive species and habitats within the area of potential effect of the groundwater extraction (the focus should be species and habitats that are either directly or indirectly [e.g., surface flows fed by groundwater] reliant on groundwater);
- b. discuss the importance of maintaining the groundwater levels and surface water levels to the long-term survival of the aquatic and terrestrial resources within the area of potential effect of the groundwater extraction;
- c. discuss plans to monitor the drawdown and its effects on sensitive habitats and species over the life of the project;
- d. thoroughly describe the location, schedule, duration, and volume of extraction;
- e. discuss whether there would be recharge of the groundwater basin, and if so, identify the source of the water used for the recharge and its quality, and discuss the recharge process and timing in the context of potential impacts on the aquatic and terrestrial resources within and downstream of the project footprint;
- f. discuss the hydrogeologic investigations and groundwater studies and modeling conducted to date for the project, including an explanation of the choice of

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- model(s) used;
- g. provide detailed hydrogeologic data and groundwater modeling results;
 - h. provide a clear and complete list of current groundwater use and forecast of future use unrelated to this project;
 - i. provide a safe yield - that amount of groundwater that can be safely extracted without detrimentally affecting the aquifer - and the data used to determine it, along with a discussion on the relative error associated with the estimated safe yield value;
 - j. discuss the hydrologic relationship between the project groundwater basin(s) and adjacent downstream and upstream basins;
 - k. provide detailed description of the vertical extent of the groundwater aquifer(s) at specific sites in the affected basin(s), including both confined and unconfined aquifers;
 - l. discuss the selection process used for the locations of the extraction wells;
 - m. discuss fault-related influences, if any, on groundwater movement and/or proposed pumping operations; and
 - n. provide a discussion of a Groundwater Management Plan that would be developed and implemented to ensure that the groundwater extraction would not result in impacts beyond those identified in the EA/TEIR.

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2. Page 37 of the draft EA/TEIR indicates that four vegetation communities were detected on the project site and page 95 of the EA/TEIR states that no native habitats will be impacted. However, the biological report included in the draft EA/TEIR identifies seven vegetation communities (identified above) on the project site, three of which are native habitats, and indicates that all vegetation on the project site will be impacted. In addition, page 37 of the EA/TEIR indicates that CSS occurs on the project site, but Figure 21 of the draft EA/TEIR does not include the CSS in the habitat mapping and the draft EA/TEIR does not quantify the acreage of CSS that would be impacted by the proposed project. The final EA/TEIR should clarify the above-described discrepancies.

3

3. To avoid impacts to nesting birds, the final EA/TEIR should require that all clearing and grubbing occur outside the bird breeding season. The breeding season for nesting birds occurs approximately February 15 through September 15; however raptors may begin breeding as early as January. If project construction is necessary during the bird breeding season, a qualified biologist should conduct a survey for nesting birds, within three days prior to the work in the area, and ensure no nesting birds in the project area would be impacted by the project. If an active nest is identified, a buffer should be established

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between the construction activities and the nest so that nesting activities are not interrupted. The buffer should be a minimum width of 300 feet (500 feet for raptors), should be delineated by temporary fencing, and should remain in effect as long as construction is occurring or until the nest is no longer active. No project construction should occur within the fenced nest zone until the young have fledged, are no longer being fed by the parents, have left the nest, and will no longer be impacted by the project.

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4. The applicant should ensure that the following conditions are implemented during project construction:
- i. Employees will strictly limit their activities, vehicles, equipment, and construction materials to the project site;
 - ii. Native plants should be used to the greatest extent feasible in landscaped areas. The applicant should not plant, seed, or otherwise introduce invasive exotic plant species to landscaped areas. Exotic plant species not to be used include those species listed on the California Invasive Plant Council's (Cal-IPC) Invasive Plant Inventory. This list includes such species as: pepper trees, pampas grass, fountain grass, ice plant, myoporum, black locust, capeweed, tree of heaven, periwinkle, sweet alyssum, English ivy, French broom, Scotch broom, and Spanish broom. A copy of the complete list can be obtained by contacting the California Exotic Pest Plant Council at 32912 Calle del Tesoro, San Juan Capistrano, California 92675-4427, or by accessing their web site at <http://www.cal-ipc.org>.

If you have questions or comments regarding the contents of this letter, please contact Michelle Moreno of my staff at (760) 431-9440.

Sincerely,



Therese O'Rourke
Assistant Field Supervisor
U.S. Fish and Wildlife Service



ARNOLD SCHWARZENEGGER
GOVERNOR

STATE OF CALIFORNIA
GOVERNOR'S OFFICE of PLANNING AND RESEARCH
STATE CLEARINGHOUSE AND PLANNING UNIT



CYNTHIA BRYANT
DIRECTOR

September 24, 2007

Chris Devers
Pauma Band of Mission Indians
1010 Pauma Reservation Road
Pauma Valley, CA 92061

Subject: Pauma Casino and Hotel Project
SCH#: 2007011086

Dear Chris Devers:

The State Clearinghouse submitted the above named Tribal Compact Environmental Evaluation to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on September 21, 2007, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Terry Roberts
Director, State Clearinghouse

Enclosures
cc: Resources Agency

**Document Details Report
State Clearinghouse Data Base**

SCH# 2007011086
Project Title Pauma Casino and Hotel Project
Lead Agency Pauma Band of Mission Indians

Type TRI Tribal Compact Environmental Evaluation
Description The replacement of the temporary Casino Pauma with a permanent casino with up to 2,500 slot machines, 50 table games, and 10 poker tables, food and beverage venues, retail shops, a 23 story hotel with 384 rooms, spa, conference, and entertainment facilities, a parking structure, increased surface parking, and infrastructure upgrades for water, sewer, and roads.

Lead Agency Contact

Name Chris Devers
Agency Pauma Band of Mission Indians
Phone (760) 742-1289 **Fax**
email
Address 1010 Pauma Reservation Road
City Pauma Valley **State** CA **Zip** 92061

Project Location

County San Diego
City Pauma Valley
Region
Cross Streets 777 Pauma Reservation Road
Parcel No. Pauma Indian Reservation
Township 10S **Range** 1W **Section** **Unsect** **Base**

Proximity to:

Highways
Airports Pauma Valley Airpark, Lyall Robe
Railways
Waterways San Luis Rey River and Pauma Creek
Schools Pauma Valley School
Land Use Casino Pauma Temporary Indian Casino

Project Issues Aesthetic/Visual; Agricultural Land; Air Quality; Archaeologic-Historic; Cumulative Effects; Drainage/Absorption; Economics/Jobs; Flood Plain/Flooding; Forest Land/Fire Hazard; Geologic/Seismic; Growth Inducing; Landuse; Minerals; Noise; Population/Housing Balance; Public Services; Recreation/Parks; Schools/Universities; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian; Wildlife

Reviewing Agencies Caltrans, Division of Aeronautics; Caltrans, District 11; California Highway Patrol; Department of Conservation; Department of Fish and Game, Region 5; Cal Fire; Native American Heritage Commission; Office of Emergency Services; Other Agency(ies); Department of Parks and Recreation; Regional Water Quality Control Board, Region 9; Resources Agency; State Water Resources Control Board, Division of Water Rights; California Department of Justice, Attorney General's Office

Date Received 08/07/2007**Start of Review** 08/07/2007**End of Review** 09/21/2007

DEPARTMENT OF TRANSPORTATION

District 11

4050 Taylor Street, MS 240

San Diego, CA 92110

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FAX (619) 688-4299

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11-SD-76

PM 28.99

Pauma Reservation Rd.

DEIR SCH 2007011086

Pauma Casino & Hotel

Honorable Chris Devers
Chairman
Pauma Band of Mission Indians
1010 Pauma Reservation Road
Pauma Valley, CA 92061

Dear Chairman Devers:

The California Department of Transportation (Caltrans) has reviewed the Draft Environmental Assessment (DEA) and Tribal Environmental Impact Report (TEIR) for the proposed Pauma Casino and Hotel to be located next to State Route 76 (SR-76). We have the following comments:

- 6 [• In order to facilitate our review an updated traffic impact study (TIS) that follows Caltrans Guide For The Preparation of Traffic Impact Studies will need to be provided so we may complete our analysis. The updated TIS must be a comprehensive analysis that includes all impacted intersections and main lanes, such as the SR-76/Valley Center Road intersection and the Interstate 15/SR-76 interchange. Also, the study must include an update of the cumulative impacts caused by this and other proposed development in the area.
- 7 [• Signal warrants are required for any proposed signalized intersections (ie. Pauma Reservation Road).
- 8 [• The geometric design of any improvements within Caltrans right of way shall be designed to Caltrans standards and in accordance with Section 200 of the Highway Design Manual. Additionally, the Pauma Reservation Road intersection shall be designed in accordance with Section 400 of the Highway Design Manual. It should also be noted that the design speed for improvements along this section of SR-76 will be 55 miles per hour.
- 9 [• On page 16 and 17 of the DEA/TEIR the Reservation Transportation Study (RTA) SR-76 Corridor Study is referred to as a document which specifies improvements that are required on SR-76. However, these improvements are for the mitigation of operational deficiencies only and a Project Report will still be required to determine the overall SR-76 improvements. It should be understood that the RTA study does not preclude required mitigation on SR-76 due to direct impacts by the proposed development.
- 10 [• All lighting (including reflected sunlight) within this project should be placed and/or shielded so as not to be hazardous to vehicles traveling on SR-76.

Chairman Chris Devers
September 21, 2007
Page 2

- 11 [• All signs visible to traffic on SR-76 must be constructed in compliance with State regulations.
- 12 [• Grading for this proposed project which would modify existing drainage and increase runoff to State facilities will not be allowed.
- 13 [• The California Scenic Highway Program, which was established in 1963 by Senate Bill 1467, "is to preserve and enhance the natural beauty of California." Therefore, the merits of a nominated highway are evaluated on how much of the natural landscape a passing motorist sees and the extent to which visual intrusions (e.g., buildings, unsightly land uses, noise barriers) impact the "scenic corridor." Although the program does not preclude development, it does ensure that it is compatible and consistent with the community's scenic values and goals. SR-76, in its entirety, is on the eligibility list to become a scenic highway. Although the proposed project consists only of minimal widening to the SR-76 in the project vicinity, and intersection improvements at the SR-76/Pauma Reservation Road location, these modifications could potentially jeopardize the scenic highway eligibility for the route at this location.
- 14 [• Prior to an approval of an Encroachment Permit for improvements in our right of way Caltrans and the Pauma Band of Mission Indians will need to enter into a cooperative agreement as stipulated in the Gaming Compact.
- 15 [• Any work performed within Caltrans Right of Way (R/W) will require an encroachment permit. Improvement plans for construction within Caltrans R/W must include: typical cross sections, adequate structural sections, traffic handling plans, and signing and striping plans stamped by a professional engineer. Furthermore, the applicant's environmental document must include such work in their project description and indicate that an encroachment permit will be needed. As part of the encroachment permit process, the developer must provide appropriate environmental (CEQA) approval for potential environmental impacts to Caltrans R/W. The developer is responsible for quantifying the environmental impacts of the improvements (project level analysis) and completing all appropriate mitigation measures for the impacts. The indirect effects of any mitigation within Caltrans R/W must also be addressed. The developer will also be responsible for procuring any necessary permits or approvals from the regulatory and resource agencies for the improvements. Additional information regarding encroachment permits may be obtained by contacting the Caltrans Permits Office at (619) 688-6158. Early coordination with Caltrans is strongly advised for all encroachment permits.

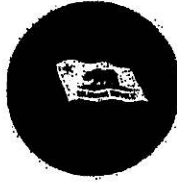
If you require further information or have any question, please contact Mark Bobotis, Caltrans Native American Liaison, at (619) 688-6807.

Sincerely,


JACOB ARMSTRONG, Acting Chief
Development Review Branch

Cc: Scott Morgan, State Clearinghouse
Chantal Saipe, County of San Diego

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OFFICE OF THE GOVERNOR

September 21, 2007

Via Facsimile (202) 632-7066, (760) 742-3422 & U.S. Mail

Brad Mehaffy, NEPA Compliance Officer
National Indian Gaming Commission
1441 L Street, Suite 9100
Washington, D.C. 20005

The Honorable Chris Devers, Chairman
Pauma Band of Mission Indians
1010 Pauma Reservation Road
P.O. Box 369
Pauma Valley, California 92061

Re: Draft Environmental Assessment and Tribal Environmental Impact Report for the Pauma Casino and Hotel

Dear Mr. Mehaffy and Chairman Devers:

16 We have reviewed the Draft Environmental Assessment and Tribal Environmental Impact Report for the Pauma Casino and Hotel (Draft EA/TEIR) dated July 27, 2007, prepared for the National Indian Gaming Commission (NIGC) and the Pauma Band of Luiseno Mission Indians (Tribe). We thank you for this opportunity to comment on the Project. From the material submitted in the Draft EA/TEIR, we are concerned that the document does not consider all of the Project's potential environmental impacts, both within and outside Reservation boundaries, as required by the National Environmental Policy Act (NEPA) (42 U.S.C. § 4331 et seq.) and the 1999 Tribal-State Gaming Compact (Compact), as amended on June 21, 2004 (Amended Compact).

The Tribe currently operates a casino on about 19.8 acres of Tribal trust land located in northern San Diego County. (Draft EA/TEIR at p. S-1.) The Tribe proposes to construct and operate a 65.7-acre gaming, hotel and entertainment facility on Tribal trust land to replace the existing casino. (*Ibid.*) The Draft EA/TEIR is a joint document for use by the NIGC to comply with NEPA in its evaluation of a proposed management agreement between the Tribe and Foxwoods Management Pauma LLC, and by the Tribe to comply with its environmental review requirements under the Amended Compact. (*Ibid.*) Although the document is titled as "Draft"

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EA/TEIR, the text simply refers to the document as the "EA/TEIR" and it is unclear whether the NIGC intends to publish a Final EA or the Tribe a Final TEIR. For reasons discussed below, we believe the Project may have significant environmental effects not addressed in the document. Therefore, to comply with NEPA, the NIGC and Tribe must either prepare a Final EA with additional information and analysis that adequately addresses the Project's environmental effects, or proceed with an Environmental Impact Statement (EIS), as the instant document would not support a Finding of No Significant Impact. In any event, the Tribe must prepare a Final TEIR as required by section 10.8.4 of the Amended Compact.

Applicable NEPA and Amended Compact Standards

NEPA requires that an EIS be prepared for all "major Federal actions significantly affecting the quality of the human environment." (42 U.S.C. § 4332(2)(C).) An agency may first prepare an EA to make a preliminary determination whether the proposed action *may* have a significant environmental effect. (*Nat. Parks & Conservation Assn. v. Babbitt* (9th Cir. 2001) 241 F.3d 722, 730; see 40 C.F.R. §§ 1501.4, 1508.9.) If such an effect is anticipated, a more detailed EIS is required under title 42 United States Code section 4332(2)(C). (*Native Ecosystems Council v. U.S. Forest Service* (9th Cir. 2005) 428 F.3d 1233, 1239.) Essentially, NEPA requires an agency to take a "hard look" at the environmental consequences of its actions and at possible alternatives. (*Kleppe v. Sierra Club* (1976) 427 U.S. 390, 410, fn. 21.)

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The critical measure is whether a project will have a "significant" impact. Under NEPA, whether an effect is significant depends both on the project's context and intensity. (40 C.F.R. § 1508.27.) "Context refers to the scope of the action, while intensity refers to the severity of the impact." (*Environmental Protection Information Center v. U.S. Forest Service* (9th Cir. 2006) 451 F.3d 1005, 1009, citing 40 C.F.R. § 1508.27.) NEPA's implementing regulations include a list of ten intensity factors, at least five of which may be applicable to this Project:

- (1) Impacts may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.
- (2) The degree to which the proposed action affects public health or safety.
-
- (5) The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.
-
- (7) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts

-
- (10) Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

(40 C.F.R. § 1508.27(b).)

Similarly, Amended Compact section 10.8.1 requires a TEIR to include detailed information about a project's "significant effects" on the off-Reservation environment. Under the Amended Compact, "significant effects" occur if any of the following conditions exist:

- (i) A proposed Project has the potential to degrade the quality of the off-reservation environment, curtail the range of the environment, or to achieve short-term, to the disadvantage of long-term, environmental goals.
- (ii) The possible effects on the off-reservation environment of a Project are individually limited but cumulatively considerable. . . .
- (iii) The off-reservation environmental effects of a Project will cause substantial adverse effects on human beings, either directly or indirectly.

(Amended Compact, § 10.8.7(b).)

The following areas in the Draft EA/TEIR require additional discussion and analyses to allow the NIGC and Tribe to take the required "hard look" at the project's environmental consequences both within and outside Reservation boundaries. At minimum, the Final EA/TEIR must respond to these concerns, and an EIS may be necessary.

Aesthetics

The Project site is located "within a rural agricultural valley . . . considered by most viewers to be aesthetically pleasing." (Draft EA/TEIR at p. 21.) The proposed Project, however, includes construction and operation of a 23-story hotel, which the Draft EA/TEIR describes as "the largest and tallest structure in the Pauma Valley" and "substantially taller than the existing single-story casino." (*Id.* at p. 76.) The tower would rise above existing topography and vegetation, and be visible in many off-Reservation areas where views of the existing casino are currently not possible. (*Ibid.*) Indeed, the Draft EA/TEIR suggests that the hotel tower height is substantial and cumulatively significant (*id.* at p. 143-144). Yet elsewhere, the Draft EA/TEIR concludes the impact to the scenic vista is less than significant. (*Id.* at p. 76). While the Draft EA/TEIR appears to reach inconsistent conclusions about the Project's effects on the visual environment—which should be reconciled in the final environmental document—the visual simulations of the proposed hotel tower (see *id.* at Figs. 17-19) alone confirm the Project has the potential to degrade the off-Reservation environment's visual quality. Therefore, we request the

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(cont.) ↑ Tribe to consider and evaluate Project alternatives that include more modest lower-height hotel designs that blend with the surrounding environment to mitigate this clearly significant impact.

We also understand the Pala-Pauma Valley Sponsor Group¹ has requested the California Department of Transportation (Caltrans) to designate State Route 76 (SR-76) as a scenic highway and SR-76 has been deemed eligible for such designation, provided certain scenic corridor protection measures are followed. (See Draft EA/TEIR at p. 81.) One such measure prohibits off-site outdoor advertising and requires controlled on-site outdoor advertising. Therefore, the Tribe should describe the extent to which it proposes to advertise the Project, either temporarily or permanently, on off-Reservation lands with potential to intrude upon the SR-76 viewshed and surrounding area, and analyze the resulting visual impacts.

Air Quality

19 The Draft EA/TEIR acknowledges “[t]here is a potential to expose off-Reservation residents to odors” from the proposed construction and operation of an expanded wastewater treatment plant. (Draft EA/TEIR at p. 92.) The Draft EA/TEIR, however, does not quantify the potential odor impact to off-Reservation receptors that would allow the public to evaluate whether the impact will be significant, or identify plant design features that will be implemented to mitigate the impact. This information must be included in the final environmental document to enable NIGC and the Tribe to evaluate whether plant design will sufficiently mitigate off-Reservation air quality impacts to less than significant levels, or whether alternatives must be considered.

Hydrology/Water Resources

20 ↓ The Draft EA/TEIR suggests the Project would not cause significant impact to water resources located on or off the Reservation, because sufficient water resources will be available from Pauma Creek, on-site groundwater, on-site reclaimed water and the Tribe’s ability to import water from the San Luis Rey Indian Water Authority. (Draft EA/TEIR at pp. 55, 73, 103, 135-136.) The Draft EA/TEIR, however, includes no documentation or hydrological data to support its conclusions. Such information must be made available to confirm water supplies are sufficient to meet the Tribe’s existing and future water needs, both with and without the Project, the extent to which the Project will impact off-Reservation water supplies, or whether at some point the Tribe must resort to off-Reservation resources to satisfy demand. (See Draft EA/TEIR at pp. 55, 73, 103, 135-136.) Increased groundwater use associated with the Project presents a potentially significant impact to off-Reservation groundwater supplies and groundwater recharge. Although the Draft EA/TEIR does not clearly specify whether or to what extent existing or planned Project water resources provide water to off-Reservation receptors, we understand Pauma Creek and the groundwater source that serve the Reservation also serve off-

¹ The Pala-Pauma Valley Sponsor Group, created by San Diego County Board of Supervisors Policy I-1, advises, among others, the San Diego County Planning Commission and Board of Supervisors in the preparation, amendment and implementation of community and sub-regional plans.

Reservation users that are groundwater dependent and cannot obtain imported water. Therefore, more empirical data is needed to permit a "hard look" at the Project's impact to water resources within and outside Reservation boundaries. Without such information, it is uncertain how the Project may affect the environment both on and off the Reservation.

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To adequately address the Project's groundwater impacts, the final environmental document's analysis of groundwater impacts must include a hydrogeological study to determine whether Project level and cumulative groundwater use from the basin will significantly impact off-Reservation groundwater users. We recommend a State-certified hydrogeologist perform the study. The study should include all elements described by San Diego County in its February 16, 2007, letter to Tierra Environmental Services regarding the Notice of Preparation of an EA/TEIR for this Project. (Wallar to Baksh letter (Feb. 16, 2007) 12-15.) It should also explain in greater detail the Tribe's reported ability to import water from the San Luis Rey Indian Water Authority (see Draft EA/TEIR at p. 55.

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Further, the hydrology/water resources impact assessment omits data supporting the asserted reclaimed water production rate for the existing wastewater treatment plant, or statistics supporting the projected increase in reclaimed water production for the new wastewater treatment facility. (See Draft EA/TEIR at pp. 55, 73.) Without such information, it is uncertain how the Project may affect the environment both on and off the Reservation.

22

The Draft EA/TEIR also lacks baseline data regarding existing water drainage patterns and the rate or amount of surface runoff. Nor does the document indicate the rate, amount, or type of surface runoff expected during Project construction and operation, either individually or cumulatively. Without more, it cannot be determined whether the two existing detention basins—of unspecified size and available capacity—located on the Reservation and a third on-Reservation detention basin—also of unknown size and capacity—will be sufficient to meet Project needs and mitigate off-Reservation impacts. Indeed, the Draft EA/TEIR indicates overflow from the existing detention basins flows into Pauma Creek during major storm events. (Draft EA/TEIR at p. 103.) It is, therefore, unknown and uncertain the extent to which Pauma Creek and its receptors will be impacted during Project construction and operation.

While the Draft EA/TEIR indicates discharge into Pauma Creek would be in compliance with a Storm Water Pollution Prevention Plan (SWPPP) and Best Management Practices (BMPs) for erosion and sediment control, neither is included or described in the Draft EA/TEIR, which renders the impact to hydrology and water quality uncertain.

We further note the Draft EA/TEIR indicates there will not be any development within the Pauma Creek floodplain (Draft EA/TEIR at p. 103), but the floodplain has not been determined, and is being evaluated as a part of this Project (*id.* at p. 104). Thus, whether all structures and parking areas will be located outside the floodplain, when the floodplain is yet unknown, cannot be determined at this time. Therefore, the conclusion that the potential impact to Pauma Creek would not be significant (*ibid.*) appears to be unsupported by the record.

Noise

23

Although the Draft EA/TEIR concludes that the Project will not result in significant noise impacts, the noise impact analysis lacks essential baseline information to support its conclusions. For instance, there is no indication of the number and type of equipment and machinery the Project will utilize during construction and operation, or how much sound the equipment generates individually or cumulatively. Without more complete information, it is difficult to evaluate the Project's impacts, or the reasonableness of the proposed mitigation measures. However, to the extent there will be off-Reservation noise impacts during construction, we encourage the Tribe to restrict all construction activities to the hours that would be applicable to off-Reservation projects under San Diego County's Noise Abatement and Control ordinance, 7 a.m. to 7 p.m., Monday through Saturday, instead of 24 hours a day, seven days a week, to mitigate those off-Reservation noise impacts.

Population and Housing

24

The Draft EA/TEIR concluded that no significant population and housing impacts would occur from the Project. But the conclusion is uncertain because it is unsupported by any empirical data. (Draft EA/TEIR at pp. 63, 113.) For instance, the Draft EA/TEIR anticipates the Project would create about 1,700 new employment opportunities that will be met by Tribal members, members of other nearby tribes and non-Tribal members living in surrounding communities. (*Id.* at pp. 63, 113.) However, the Draft EA/TEIR does not examine local and regional population statistics and growth forecasts both with and without the Project. Additionally, it does not identify existing housing supply and demand, and whether and to what extent there are plans for future residential development within Reservation boundaries or surrounding communities. Moreover, the Draft EA/TEIR provides no qualitative or quantitative analyses to show the existing unemployed labor pool on the Reservation and in surrounding communities could readily fill the permanent operational positions, or whether the Project will create new jobs or simply facilitate lateral shifts from one job to another without labor force replacement.

The analysis also lacks discussion of whether the Project will result in growth inducement, such as economic or social changes that will significantly impact the off-Reservation environment. Construction and operation of a large-scale Gaming Facility, destination resort, and entertainment complex, either by itself or when considered in combination with other development in the area, may stimulate commercial and residential development in the region. To the extent these potentially significant impacts have not been considered, the environmental consequences of the Project remain uncertain. (See 40 C.F.R. § 1508.27(b)(1); Amended Compact, § 10.8.7(b).)

Public Services

The Draft EA/TEIR does not adequately examine the Project's off-Reservation impact to the following public services.

Fire Protection and Emergency Medical Services. The Draft EA/TEIR indicates the Tribe is "planning" to expand its existing fire station and "anticipates" it would be able to respond to calls for fire protection. (Draft EA/TEIR at p. 114.) According to the Draft EA/TEIR, however, the Tribal fire department is currently equipped to handle only brush fires (*id.* at p. 64) and there is no detail regarding the nature, scope, or expected completion date of the proposed expansion.

Moreover, while the Draft EA/TEIR indicates structural fire protection is currently provided by the Pala Reservation Fire Department (*ibid.*), the mutual aid agreement with Pala, which is not included or described in the Draft EA/TEIR, is only valid for one year (*id.* at p. 101). In addition, although the Draft EA/TEIR describes the staff and equipment available at the Pala Reservation Fire Department (*ibid.*), there is no baseline statistical data to objectively evaluate whether the Pala Reservation Fire Department is capable of safely providing fire protection for the Project. Similarly, there is no current information regarding response times, equipment, staffing, training, or certification to permit objective evaluation of the potential impact to off-Reservation providers of backup emergency fire protection services, including the Rincon Reservation Fire Department and the California Department of Forestry. (See *id.* at p. 64.) Nor is sufficient information included to evaluate how off-Reservation communities will be impacted if increased service to the Project results in decreased service elsewhere, or whether the fire fighting force must leave the Reservation to assist in a mutual aid response to a neighboring fire district.

The same deficiencies are present with respect to the Draft EA/TEIR's discussion of emergency medical services. The Draft EA/TEIR does not identify existing nearby off-Reservation hospitals, or address the potential impacts to those facilities, including whether hospitals are, or will be, adequately staffed and equipped to meet any increase in services generated by the Project.

Without such information, it is difficult to evaluate the Project's impacts, or the reasonableness of the proposed mitigation measures. Also, the Compact requires the Tribe to "make reasonable provisions for adequate emergency, fire, medical and related relief and disaster services for patrons and employees of the Gaming Facility." (Compact, § 10.4.) Thus, the environmental document must detail the provisions the Tribe has made for emergency access and availability throughout the Project site during construction and operation.

Law Enforcement. The Draft EA/TEIR does not address the type and scope of criminal activity directly and indirectly attributable to the existing Gaming Facility, what appreciable impact the proposed expansion will have on crime levels, or how criminal activity in the existing

26 (cont.) facility and proposed expansion have and will impact the State's criminal courts. Law enforcement is currently provided by a 48-person Tribal casino security force and the San Diego County Sheriff's Department. (Draft EA/TEIR at p. 115.) The Sheriff's Department has noted the "severe impact of gaming" in the area (*id.* at p. 65), and "has expressed concern about an increased drain on its resources due to the operation of several casino's within its command area" (*id.* at p. 115). Nonetheless, the Project's impact on off-Reservation law enforcement is uncertain, because the Draft EA/TEIR does not discuss how off-Reservation communities will be impacted if increased law enforcement service by the Sheriff's Department to the Project results in decreased service elsewhere. The California Highway Patrol, which provides law enforcement on nearby I-15 and SR-76, would also be expected to experience an increase in service calls and traffic enforcement due to the Project, yet the Draft EA/TEIR does not factor this into its analysis. Increased public patronage of the casino without a corresponding increase in public safety equipment and personnel has the potential to impair emergency response time both on and off the Reservation. The final environmental document should address this issue in greater detail, as the Compact prohibits class III gaming in a facility that is constructed or maintained in a manner that endangers public health or safety. (Compact, §§ 6.4.2(c), 10.1.)

27 **Schools.** The Draft EA/TEIR includes no data or analysis to support the conclusion that the Project will not impact off-Reservation schools. (Draft EA/TEIR at p. 116.) As discussed in the population and housing analysis above, the Draft EA/TEIR does not explain the basis for its assumption that the increased employment opportunities generated by the Project are likely to be met by current residents of the Reservation and surrounding communities. Because the Project may result in growth inducement, it may also increase demand for off-Reservation schooling. In addition, the Draft EA/TEIR provides no indication whether local schools that could be impacted by the Project are at or near capacity, or when they could be, with or without the Project, based upon local and regional population statistics and growth forecasts.

28 **Solid Waste.** The Draft EA/TEIR indicates the Tribe contracts with a private company for solid waste disposal to either the Miramar or Santee landfill (Draft EA/TEIR at pp. 66, 75), but there is no analysis of past, present or future impacts on landfill capacities that have been and will be generated by the Tribe's current development or during Project construction and operation. The final environmental document must evaluate this off-Reservation impact in greater detail, and discuss, without limitation, the amount of waste generated by the Tribe's current operations, the amount of waste expected during Project construction and operation, and the capacities and projected closure dates for landfills utilized by, or otherwise available to, the Tribe. The absence of such information and analysis precludes the necessary "hard look" at the Project's off-Reservation impacts, particularly to local landfills and solid waste service providers.

Recreation

29 As with other analyses discussed in these comments, the Draft EA/TEIR provides no empirical data to permit a qualitative or quantitative analysis to support the conclusion that the

29 ↑
(cont.) Project will not cause a significant impact to off-Reservation recreational facilities. (See Draft EA/TEIR at pp. 67, 117.) Such information and analysis must be included to permit the public to evaluate the potential impacts on recreation.

Socioeconomic Conditions and Environmental Justice

30 The Draft EA/TEIR noted that “[t]he potential for gambling addiction is possible with the development of any gambling operations,” and that the “growth of Indian casinos in the state has added to the number of potential venues for problem gamblers.” (Draft EA/TEIR at p. 118.) Indeed, the California Research Bureau recently detailed the correlation between casinos and compulsive and problem gambling, and estimated that the costs associated with problem and pathological gamblers is approximately \$1 billion per year in California. (California Research Bureau, Gambling in the Golden State: 1998 Forward (May 2006) CRB 06-004, 72, 83-85, 127-139.) To address these effects, the State has earmarked some revenue from existing compacts to fund state programs for problem and pathological gamblers (see Gov. Code, § 12012.85, subd. (g)(2)), and included many provisions in existing compacts to address problem and pathological gambling. Specifically, the Tribe’s Amended Compact requires the Tribe to enter into an enforceable written intergovernmental agreement with San Diego County that includes, among other things, “[p]rovisions . . . for reasonable compensation for programs designed to address gambling addiction.” (Amended Compact, § 10.8.8(iii).) Accordingly, the Draft EA/TEIR’s general discussion of gambling addiction and available problem gambling programs (Draft EA/TEIR at p. 118) is not sufficient, and additional information needs to be provided to evaluate the potential impact a significantly larger casino will have on problem and pathological gambling, and the Project’s cumulative impact when viewed in combination with other legalized gambling opportunities available locally and regionally, including nearby tribal casinos.

Utilities and Service Systems

31 **Wastewater Treatment.** As with the hydrology/water resources impact assessment discussed above, the Draft EA/TEIR includes no data to support the Project’s estimated wastewater flows or the conclusion that the Tribe’s existing wastewater treatment facility can be expanded to meet Project demands. (Draft EA/TEIR at p. 136.) Without such information, it cannot be determined whether the Project will cause significant environmental impacts. There also appears to be no supporting data for the conclusion that the proposed on-site construction of new stormwater drainage facilities that would divert wastewater to Pauma Creek will adequately preserve water quality and not result in any significant environmental impacts.

32 **Electricity and Gas Services.** Based on the information provided in the Draft EA/TEIR, it is not clear that San Diego Gas and Electric Company and private propane distribution companies are capable of providing sufficient utilities to the Project during construction and operation. (See Draft EA/TEIR at p. 75.) Indeed, the Project’s construction and operational needs are unspecified, making it difficult to evaluate the impact to off-Reservation electricity and gas services. Consequently, additional information is needed to evaluate the off-Reservation

32 (cont.) ↑ impact to energy sources, including, without limitation, a discussion of the Project's individual and cumulative impact on the State's electrical grid, particularly during peak summer hours when demand surges, and the energy conservation measures the Tribe proposes to "reduce the wasteful, inefficient, and unnecessary consumption of energy." (Amended Compact, § 10.8.1(a)(iii).)

Cumulative Impacts Analysis

33 NEPA requires an agency to consider the environmental impact that "results from the incremental impact of the action when added to other past, present and reasonably foreseeable actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions." (*Muckleshoot Indian Tribe v. U.S. Forest Service* (9th Cir. 1999) 177 F.3d 800, 809, citing 40 C.F.R. § 1508.7.) Similarly, the Amended Compact requires the Tribe in its TEIR to consider the degree to which even individually limited effects on the off-Reservation environment are cumulatively considerable. (Amended Compact, § 10.8.7(b)(ii).) The cumulative impacts analysis in the Draft EA/TEIR does not evaluate the incremental impacts from past projects, both Tribal and non-Tribal, located within and outside Reservation boundaries, including, without limitation, construction of the existing gaming facility in 2000, and how those individual impacts might combine or synergistically interact with each other to affect the environment. Discussion of cumulative impacts is particularly important here because of the number and proximity of large tribal gaming operations located in northern San Diego County.

The Project's Effects Appear To Be "Highly Uncertain"

In determining whether a proposed project's impacts are significant to warrant an EIS, NEPA requires consideration of, among other things, "[t]he degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks." (40 C.F.R. § 1508.27(b)(5).) In explaining the "highly uncertain" standard, the Ninth Circuit stated:

34 An agency must generally prepare an EIS if the environmental effects of a proposed agency action are highly uncertain. Preparation of an EIS is mandated where uncertainty may be resolved by further collection of data, or where the collection of such data may prevent "speculation on potential . . . effects. The purpose of an EIS is to obviate the need for speculation by insuring that available data are gathered and analyzed prior to the implementation of the proposed action." [Citations.]

↓ (*Native Ecosystems Council v. U.S. Forest Service*, *supra*, 428 F.3d at p. 1240.)

Mr. Brad Mehaffy
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34
(cont.)

The Project's effects appear to be highly uncertain within the meaning of NEPA. As detailed above, many of the Draft EA/TEIR's conclusions appear speculative and create substantial questions about whether the Project may cause significant degradation of the human environment. Based on the current Draft EA/TEIR, it is not clear what will happen to local environmental factors discussed in this comment letter if the Project goes forward. We believe additional information is necessary to properly assess the Project's environmental effects. (See *Blue Mountains Biodiversity Project v. Blackwood* (9th Cir. 1998) 161 F.3d 1208, 1213 [ordering the Forest Service to prepare an EIS where the EA's treatment of one important environmental factor was "cursory and inconsistent"].)

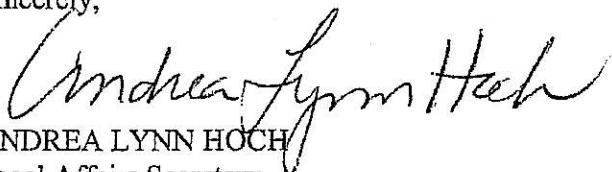
Conclusion

35

The Draft EA/TEIR appears to be deficient in several areas, necessitating additional information to fully assess the nature and scope of the Project's impacts to the on- and off-Reservation environment, and the adequacy of efforts to mitigate the impacts. Indeed, the length of the Draft EA/TEIR, totaling 160 pages with over 135 pages of appendices, suggests the Project will have a significant environmental impact. (See 46 Fed.Reg. 18026 at questions 55, 36(b) [environmental assessment should normally be no more than 15 pages in length, except in rare cases, and "a lengthy EA indicates that an EIS is needed."].) In any event, these comments do not constitute the entirety of the State's comments on the Draft EA/TEIR. Other State agencies with specific technical expertise may provide additional comments in separate letters.²

Thank you for this opportunity to comment on the Draft EA/TEIR.

Sincerely,


ANDREA LYNN HOCH
Legal Affairs Secretary

cc: Dr. Michael Baksh, Tierra Environmental Services
Chandra L. Wallar, San Diego County, Deputy Chief Administrative Officer

² In particular, we note an encroachment permit or permits from Caltrans may be required for the Project's construction and operation. If so, the appropriate California Environmental Quality Act documents will need to be prepared.



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September 21, 2007

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DRAFT ENVIRONMENTAL ASSESSMENT AND TRIBAL ENVIRONMENTAL IMPACT REPORT FOR THE PAUMA CASINO AND HOTEL

The County of San Diego (County) has reviewed the Draft Environmental Assessment and Tribal Environmental Impact Report (Draft EA/TEIR), dated July 27, 2007 and received August 8, 2007, for the Pauma Casino and Hotel (Proposed Project). The Draft EA/TEIR was prepared for the National Indian Gaming Commission and Pauma Band of Mission Indians.

It is stated on page 11 of the document that the Proposed Project includes the construction and operation of an approximately 65.7-acre resort with a casino, 23-story hotel, retail and food and beverage venues, luxury spa, pool and associated resort facilities, multi-purpose events center, conference and meeting center, administrative and back-of-house facilities, parking, additional water wells, new water reservoir and expanded wastewater treatment system.

The County is a political subdivision of the State of California responsible for the governance, health, and welfare of the People of San Diego County. County comments will relate to issues within its statutory responsibilities and are as follows:

Project Description

1. The Proposed Project description needs clarification and consistency. In order to appropriately evaluate the project's impacts, the Proposed Project's scope needs to be clarified as requested below:

36

- a) Disposition (retention or demolition) of existing casino facilities needs to be clarified.

- 37 [b) Draft EA/TEIR states the new casino will contain 83,100 square feet of gaming area but information is not provided regarding how much of an expansion this presents compared to the existing casino's gaming area square footage.
- 38 [c) Draft EA/TEIR identifies a 110,000-square foot new casino but the Traffic Impact Analysis (TIA), Appendix F, page 1, identifies a 171,000-square foot new casino.
- 39 [d) Draft EA/TEIR identifies 1,500 space parking garage and 2,400 surface parking spaces but TIA identifies 2,000 space parking garage and 2,500 surface parking spaces.
- 40 [e) Need to describe the Multi-Purpose Events Center and its uses, and delineate which uses will be outdoor and which uses will occur during night-time hours.
- 41 [f) To clarify the project scope and how it compares to existing facilities and uses and so that analysis of the Proposed Project's impacts can occur, a table should be provided that details existing and post-expansion uses at the project site.

Alternatives

- 42 [2. Project description of each alternative needs to be clarified. Similar to the above comment regarding the Proposed Project's description, each alternative needs to be described and compared to the Proposed Project.
3. Alternatives Analysis is inadequate. The degree of analysis devoted to each alternative in the Draft EA/TEIR should be substantially similar to that devoted to the "proposed action." Section 1502.14(b) of NEPA specifically requires "substantial treatment" of each alternative including the proposed action. This regulation prescribes a level of treatment to enable a reviewer to evaluate and compare alternatives. This level of analysis of the Alternatives is totally lacking and the Draft EA/TEIR should be revised to fully analyze each of the Alternatives.
4. The Draft EA/TEIR should provide maps that show the alternative locations that were considered for the proposed project as described in Section 2.5, page 18.

Aesthetics

- 43 [5. Proposed Project will result in significant impacts to scenic vistas and visual resources because the project will introduce a massive, urban development in an area of rural development. The Draft EA/TEIR concludes that there are less than significant impacts to scenic vistas and visual resources from the project. County does not agree with either this conclusion or with the reasoning that significant impacts will be reduced because of the design of the building and the fact that the building will not prevent long-distance

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- views. The scale and intensity of the proposed development and its 23-story hotel are in no way compatible with the surrounding rural area and clearly will result in significant impacts to the scenic qualities of the rural Pauma Valley. County does not agree that such a massive development will not dominate all surrounding vistas. The evidence in the Draft EA/TEIR does not support such a conclusion. Feasible alternatives and mitigation measures must be further explored to reduce the significance of impacts to visual resources.
- 44
6. The proposed mitigation measure regarding exterior light fixtures is incomplete. The project site is located 6 miles away from the Palomar Mountain Observatory (Observatory) closer than any other casino facility in San Diego County. The Draft EA/TEIR states that all outdoor lighting from the Proposed Project will comply with the Dark Skies Ordinance, but then proposes a mitigation measure that would only partially comply with the ordinance: "all exterior lighting associated with the Proposed Project shall be focused toward the facilities and shall be fully-shielded to prevent any direct upward illumination or spill-over of light onto adjacent properties." To prevent significant impacts to the Observatory, this proposed mitigation measure needs to be revised to clearly direct all fixtures downward, rather than toward the facilities. To avoid significant direct and cumulative impact to the Observatory, an additional mitigation measure must be added requiring all exterior lighting to be low pressure sodium lighting.
- 45
7. Light pollution analysis fails to examine light pollution from the Proposed Project's 23-story high-rise hotel. The Proposed Project and each of the alternatives should be analyzed for light pollution impacts associated with the tall hotel structure, and mitigation measures must be identified to protect the observatory from significant impacts.
- 46
8. Light pollution analysis fails to examine light pollution from the Proposed Project's night-time, outdoor events. As stated above, it is unclear from the Project Description what the scope and magnitude of outdoor events will be – this needs to be described, light pollution analysis needs to be expanded to address this form of light pollution, and mitigation measures must be identified to protect the Observatory from significant impacts.
- 47
9. Use of special lighting such as upward-directed search lights needs to be prohibited. Use of special exterior lights such as upward-directed search lights to attract customers or for any other purpose should be prohibited from the Proposed Project due to the rural setting and close proximity to the Observatory. Such lights clearly cause significant, unmitigable impacts to the Observatory and the rural community.

Agricultural Resources

- 48 10. The evaluation of impacts to agricultural resources is incomplete and needs additional analysis. The proposed project is located in an important agricultural area of the County of San Diego and could have significant indirect effects to off-Reservation agricultural operations due to the incompatibility of placing a high-volume entertainment and gaming facility in a rural agricultural area. The placement of incompatible uses near agricultural operations often results in complaints to farmers to change farming practices involving pesticide use, noise, dust and odors. Land use incompatibilities and associated conflicts can ultimately cause the permanent conversion of agricultural uses as farming becomes more difficult given new conditions and land use conflicts. The Draft EA/TEIR should be revised to add information which fully discloses these potential indirect impacts to agriculture and explore options to minimize these significant adverse effects.
- 49 11. Farmland Conversion Impact Site Assessment Criteria is incomplete. The Draft EA/TEIR concluded that impacts to agricultural resources are less than significant based on completion of the USDA Farmland Conversion Impact Rating, Form AD-1006. However, Form AD-1006 (included in Appendix B), did not include any scores under Part VI, Site Assessment Criteria. The Site Assessment Criteria portion of the rating is the part that addresses the land uses surrounding the site, including whether existing off-site agriculture exists and whether the proposed project would be compatible with surrounding agricultural uses. Based on the criteria contained in CFR 685.5b and the significant rural agricultural uses surrounding the project site, the addition of the site assessment score would likely raise the significance of the agricultural value of the site to above a significant level. This would further justify the need to fully explore the significance of placing a high-volume gaming and entertainment facility in an agricultural area of the County and for exploring feasible mitigation measures to minimize the potentially significant off-site impacts to agricultural resources surrounding the site. This further analysis should be provided to ensure that the EA/TEIR adequately addresses this important issue.

Air Quality

- 50 12. Draft EA/TEIR lacks credible analysis that it will not conflict with the Regional Air Quality Strategy (RAQS), that it will not create direct significant impacts, that it will not create a significant health risk with the increase in diesel particulates (PM2.5) during construction and operation of the Proposed Project and that it will not cumulatively contribute pollutants for which the San Diego Air Basin (SDAB) is already in violation of Federal Standards.

- 51 [13. Incorrect screening-level thresholds of significance were used in the air pollution analysis. The analysis and discussion in this technical study should be revised to reflect the daily thresholds, because Ambient Air Quality Standards refer to 1 hour, 8 hour and 24 hour concentrations. The tons per year thresholds used in the Draft EA/TEIR analysis only apply to major stationary sources.
- 52 [14. Air Quality Analysis does not substantiate conclusions. On page 86, the Draft EA/TEIR claims that the Proposed Project does not conflict with the RAQS, based on expected mobile source emissions, which are forecasted using the trips from land uses in the County's General Plan. When a project increases vehicular emissions greater than what is expected by the current growth projections used in the RAQS (which is the case for this project), the project would jeopardize the region's attainment of Federal and State ozone standards. The Draft EA/TEIR must provide substantial evidence that the project will not conflict with the RAQS. In order to demonstrate conformance with the RAQS when a project increases density, a growth projection analysis for the applicable SRA and/or MSA comparing the SANDAG growth projections with the actual development expected to occur (based on GIS data for development recently approved or currently in the discretionary process for a specific SRA) must be completed. If the project, in conjunction with other projects within a defined boundary, contributes to growth projections that exceed SANDAG's growth projections for that defined boundary, the project would be in conflict with the RAQS, and would have significant impact on air quality.
- 53 [15. Assumptions used in estimating construction and operational air pollution emissions are not justified or complete. The URBEMIS2002 model, used to calculate construction and operational emissions, changed most of the standard assumptions used in the calculations without justification for the changes. Changes to default values and assumptions used to calculate emissions must be explained. In addition, the analysis fails to show emission levels before mitigation and then how the mitigation measures reduce emissions below a level of significance. This information is vital in order to disclose impacts from the project to the public.
- 54 [16. The Draft EA/TEIR fails to conduct any type of health risk assessment on increased diesel-fired particulate matter which will result from the 4,512 average daily trips that the project would generate and the resulting impact to the surrounding residential receptors. Diesel exhaust is mainly composed of particulate matter and gases, which contain potential cancer-causing substances. Emissions from diesel engines currently include over 40 substances that are listed by EPA as hazardous air pollutants (HAPs) and by the ARB as toxic air contaminants. On August 27, 1998, the ARB identified particulate matter in diesel exhaust as a toxic air contaminant,

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based on data linking diesel particulate emissions to increased risks of lung cancer and respiratory disease. The Draft EA/TEIR needs to assess the increased cancer risk level based on the increase of diesel-fired particulates and identify appropriate mitigation measures.

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17. Cumulative construction air quality analysis inexplicably limited analysis to a ¼ mile radius. On page 90, a ¼ mile cumulative radius was used for a cumulative construction boundary area. The selection of such a limited boundary appears arbitrary. The cumulative analysis boundary must be based on the planning area or on a topographical boundary (valley), and should include a scientific explanation for the geographic limitation used.

56

18. Analysis of sensitive receptors is incomplete. Figure 2 on page 8, identifies the Pauma Elementary School and page 65 lists the Valley Center High School as the schools closest to the Proposed Project. The location of the schools should be disclosed to determine if they should be listed as sensitive receptors. In addition, page 35 states that the nearest sensitive receptors are 450 to 550 feet from the project boundaries, while page 91 states the nearest sensitive receptor is 1,150 feet away. The analysis must be revised for consistency and to appropriately consider the schools as sensitive receptors.

Biological Resources

57

19. Figure 11 on page 38 needs additional information. The document should be revised to indicate the disturbed sage scrub on the vegetation map and give the acreages of each habitat type on the property in order to properly assess impacts.

58

20. Additional analysis of sage scrub is needed. Based on the vegetation existing south of the property, the County believes that the disturbed sage scrub on the site is Riversidean rather than Diegan as referenced on page 37. In addition, Table 12 on page 93 fails to include this resource as part of the biological impacts. The document should be revised to provide this information to properly assess impacts.

59

21. Analysis of raptor foraging habitat is needed in Section 4.4a, page 93. Three raptor species were observed during the biological resources surveys of the site and many others have the potential to occur. The document should be revised to describe the potential for raptors to nest and the likelihood of the area being used for raptor foraging. If raptor foraging habitat exists on the site and would be impacted by the Proposed Project, the acreage of raptor foraging habitat should be quantified and appropriate mitigation should be proposed.

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22. Additional analysis is needed to assess potential impacts to bald eagles and golden eagles. Even though they were federally de-listed by the USFWS, bald eagles and golden eagles are still protected by two federal acts: the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. These Acts require measures to continue to prevent bald eagle "take" resulting from human activities. The USFWS published the National Bald Eagle Management Guidelines in May 2007. Bald and/or golden eagles occur in northeastern San Diego County and may use the habitats on site.

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23. The project may cause indirect impacts to off-Reservation Riversidean sage scrub and Pauma Creek. The Draft EA/TEIR does not describe the off-Reservation Pauma Creek and the habitat between the southern project boundary and the creek channel. As described in section 1.4 of the Draft EA/TEIR, the project site is located on a broad alluvial fan. This area is part of the fan. The County believes the vegetation community is Riversidean sage scrub growing on the slightly sloping land between the project site and the creek. The vegetation is heavily dominated by California buckwheat (*Eriogonum fasciculatum*) with scattered California sagebrush (*Artemisia californica*). At the upstream end (eastward) are widely scattered western sycamores (*Platanus racemosa*); a couple of coast live oaks (*Quercus agrifolia*) are amid the Riversidean sage scrub shrubs between the project site and the creek channel closer to SR 76. Off-Reservation impacts could include, but are not limited to, noise and dust during construction, stormwater runoff, and night-lighting of off-Reservation habitat. The document should be revised to assess the impact to these resources.

62

24. Analysis of impacts to Off-Reservation coast live oak trees is needed. Coast live oak trees are growing along the west side of SR 76, south of Pauma Reservation Road, within the area of the Proposed Project's intersection improvements. These trees are interspersed among non-native trees. Impacts to these oak trees should be considered in the off-Reservation impact assessment.

63

25. Documentation to support conclusions for off-Reservation cultural impacts is incomplete. Without a current cultural resources report, the County cannot adequately comment on the Cultural resources sections of the Draft EA/TEIR. Survey and/or evaluation reports that cover the proposed improvement areas should be provided to the County to adequately assess the environmental impacts to cultural resources. The cultural resources reports and project-specific archaeological/cultural site location maps and figures can be submitted under separate cover directly to County archaeologists to protect the confidentiality of the contents.

Cultural Resources

Geology and Soils

64

26. The analysis in Section 3.6, page 51, does not address the erosion potential of the soil type within the proposed project limits. The document should be revised to include this analysis to assure appropriate mitigation measures are identified, for both construction and post-construction phases to avoid off-Reservation impacts.

Hazards and Hazardous Materials

65

27. Additional analysis is needed to determine if the project will result in a significant airport hazard. The project site is located near the Lyall Roberts Airstrip and the Pauma Valley Airpark. Because of the proximity of these two facilities, the Draft EA/TEIR should analyze whether the proposed development, particularly the 23-story hotel tower, is an air safety hazard. This analysis is required in order to comply with the National Environmental Policy Act (NEPA), as Federal agencies must consider airport hazards when assessing the environmental impacts of proposed Federal projects. The County suggests following the County's "Guidelines for Determining Significance – Airport Hazards" to provide a complete and adequate analysis that addresses all Federal and State regulations, standards and noticing requirements. The analysis should analyze whether the project exceeds the California Airport Land Use Planning Handbook's Safety Compatibility Guidelines for Maximum Non-Residential Intensity and whether the Proposed Project is considered an incompatible use as identified in the Handbook's Safety Compatibility Criteria Guidelines for Safety Compatibility Zones – Prohibited Uses, and therefore if the Proposed Project will result in a significant airport hazard.

Hydrology/Water Resources

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28. Drainage analysis is not complete. Further analysis should be performed to consider impacts to Pauma Creek from the Proposed Project. Section 3.8, page 55, does not describe or analyze the runoff generated by the Proposed Project despite significant additional impervious areas being added with associated significant increase in runoff from the site. The Proposed Project is located within an alluvial fan; therefore current flows to Pauma Creek are subject to wide meanders. This causes the analysis to be more complex and increases the importance of identifying potential significant impacts to Pauma Creek. The document should be revised to include this information.

67

29. The Draft EA/TEIR states that an additional drainage detention basin will be constructed, but provides no information regarding the sizing of the basin, infiltration time, storm size that the basin is designed to handle, nor potential significant impacts that the basin may cause by diverting runoff from Pauma

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Creek. Section 4.8c, page 103, describes a proposed third basin. Rather than detaining the runoff from the project, the basin will retain the water and allow for infiltration. If the basin doesn't drain completely within 72 hours, mosquitoes can become a problem. Because the basin will divert runoff from Pauma Creek, a water quantity/quality analysis determining impacts to Pauma Creek and downstream habitats should be performed, and the information should be included in a revised Draft EA/TEIR.

68

30. Relying on the retention basins may not be sufficient to handle all the pollutants of concern. Section 4.8d, page 104, should discuss the potential for other pollutants such as litter, to collect on the site and how the retention basins would be able to mitigate the impacts from the project. The proximity of the project to Pauma Creek increases the likelihood that trash and other pollutants such as heavy metals, oils and grease generated from the parking areas, could be transported to the creek. This impact should be analyzed and appropriate mitigation measures should be identified.

69

31. The document should be revised to include a discussion of the total use of the reclaimed water. Section 4.8a, page 103, discusses the expansion of the wastewater treatment plant, but does not address the use of all the reclaimed water. The report indicates that the reclaimed water will be used for irrigating existing groves; however, the size of the groves will be reduced by the footprint of the project. The remaining grove area, and the amount of reclaimed water that will be needed to irrigate it, should be identified. If there will be other uses of the reclaimed water, they should also be identified to fully assess the impacts to off reservation areas.

Groundwater

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32. Despite a significant increase in groundwater use associated with the Proposed Project, the Draft EA/TEIR concludes there will be no significant impact. This conclusion is based on limited analysis, which does not support the conclusion. The Draft EA/TEIR states that depletion of groundwater is not significant because there will not be a net increase in water use on the Reservation due to decreased irrigation of citrus on the Reservation and usage of reclaimed water to offset groundwater demand. The document should be revised to provide the acreage of citrus that will be removed as a result of the casino expansion and also detailed plans and analysis of how and where the reclaimed water will be used on-site to offset groundwater demand as a result of this project.

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33. The proposed project's assumed water demand is unsubstantiated and must be verified. The text assumes that the total water demand for the project would be 255 acre-feet per year, but does not provide a detailed breakdown of the various uses (expanded casino, additional facilities, swimming pools, hotel rooms, fire suppression storage, landscaping, etc.)

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and their associated groundwater demand. The document should be revised to include detailed engineering calculations to substantiate the total water demand for the project including all water demands. It is important that enough information is presented so the County and the public can easily understand and review the total proposed groundwater demand of the project.

72

34. Increased groundwater use associated with the project presents a potentially significant impact to off-Reservation groundwater supplies and groundwater recharge. The groundwater source that serves the Pauma Reservation also serves off-Reservation users that are groundwater dependent and cannot obtain imported water. To support the conclusion in the Draft EA/TEIR that impacts are less than significant and to adequately address groundwater impacts associated with the proposed project, this issue should be fully explored and analyzed. Information should be provided that substantiates the conclusions reached on such a critical issue to the off-Reservation community. The County requests that the following information be developed and the document revised to include this information and any resulting conclusions reached after analyzing the information:
- a. Reservation well information should be reviewed. It is unknown where any of the Reservation's pumping wells are (as well as any Reservation monitoring wells), as the information is not contained in the document. In addition, the document does not explain the amount of production expected from each well. The County suggests that the Pauma Tribe allow DPLU staff to see the locations of each production well, the projected locations of any new production wells, and the anticipated amount of pumping that is expected to occur from each well. Also, the County requests to see associated well logs, past groundwater production data from each well, groundwater level data from each well over time, well testing data, and any other pertinent information regarding Reservation production wells.
 - b. Well Testing and Well Interference Analysis must be conducted. Well testing of Reservation production wells are needed to adequately determine off-Reservation groundwater impacts. Potential impacts to neighboring off-Reservation wells should be closely examined during each well test. Off-site monitoring of nearby wells should be used to determine potential adverse off-Reservation impacts. Monitoring wells installed by the Tribe could also be utilized to determine these potential impacts. In addition, a 5-year projection of drawdown must be performed using standard hydrologic methods (taking into account the projected demand of the project). The projection of drawdown will provide an estimate of impacts to off-site wells as a result of the Reservation's extraction of 255 acre-feet per year for five years (similar to a severe drought scenario where no recharge occurs during a five-


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year period). In the County "Guidelines for Determining Significance for Groundwater Resources," the County assumes the following as a significant impact regarding off-site well interference in alluvial basins: *"As an initial screening tool, off-site well interference will be considered a significant impact if after a five year projection of drawdown, the results indicate a decrease in water level of 5 feet or more in the off-site wells. If site-specific data indicates alluvium or sedimentary rocks exist which substantiate a saturated thickness greater than 100 feet in off-site wells, a decrease in the saturated thickness of 5% or more in the off-site wells would be considered a significant impact.* The analysis should be performed, and a conclusion reached as to significance of the impact in order to adequately assess this issue.

73

35. The sustainable yield of the aquifer was not analyzed. If groundwater offsetting measures of utilizing reclaimed water and decreasing irrigation of citrus cannot be fully substantiated, sustainable yield calculations for the project site and project's watershed must be provided to adequately determine whether project level and cumulative groundwater use from the basin will significantly impact off-Reservation groundwater users. The elements listed below should be addressed in the analysis. The analysis should be conducted over the entire groundwater basin where project pumping wells are or will be located; and it is recommended that a California Certified Hydrogeologist perform the study
- a. The project site and existing development in the watershed tributary to the site must be identified and mapped, including:
 - 1) Location and site configuration and site topography and surface drainage patterns;
 - 2) A description of soil types with regard to their hydrological characteristics;
 - 3) Geological setting of the project site and topographic watershed; and
 - 4) Existing land uses and the maximum allowable density permitted by the General Plan.
 - b. An inventory of existing water sources and uses in the relevant watershed.
 - 1) The inventory must include all wells, springs, surface ponds and reservoirs. Nearby high-demand water consumers should also be noted (water districts, agricultural operations, etc.);

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- 2) The performance records of all existing wells located within the watershed, including well failures and causes of those failures, should be documented to the extent possible; and
 - 3) The projected water demand for the Proposed Project should be evaluated throughout the Project life including construction. This evaluation must include estimates for the water demand for all aspects of the Project. Maximum allowable production must be identified for the Project. The analysis of groundwater impacts should be based on the maximum anticipated groundwater production.
- c. Evaluation of groundwater resources within the watershed.
- 1) The Study should evaluate and document groundwater storage and recharge for the relevant watershed. The estimates of storage and recharge should be made based on site-specific information and data on the saturated thickness and specific yield of the aquifer.
 - 2) Groundwater recharge must be evaluated for the watershed. The computer program RECHARG2 or similar and acceptable methodology must be used to calculate groundwater recharge.
- d. Long-term groundwater availability.
- 1) Groundwater availability on-site, as well as in the watershed, including long-term annual yield that can be sustained, must be calculated. The long-term yield should be evaluated based on estimates of groundwater in storage, recoverable groundwater losses, existing on-site water withdrawals, and the expected annual recharge rates from natural and artificial sources. The existing, basin wide groundwater withdrawals, water rights within the watershed, and maximum future withdrawals that would be allowed by the maximum density of the County General Plan should also be taken into consideration.
 - 2) A 40-year groundwater balance must be used based on groundwater recharge, storage, and watershed basin demand. (If storage falls to less than 50% of calculated groundwater storage, serious consideration should be given to whether the Proposed Project should proceed).

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e. Evaluation of project impacts.

The Study should evaluate impacts to groundwater users in the relevant watershed caused by groundwater withdrawals for the Proposed Project.

74

36. Since the project may impact off-Reservation groundwater users, a Groundwater Monitoring and Mitigation Plan (GMMP) should be developed. The GMMP should include ongoing, periodic monitoring of wells located between proposed wells for the Project and off-Reservation properties, or wells located along the boundary of the Reservation. Monitoring of groundwater levels in these wells should occur on a weekly basis to ensure that to the Project's use of groundwater does not significantly impact off-Reservation groundwater users. Thresholds for maximum allowable water level declines in the monitoring wells should be established in the GMMP to ensure that significant declines in groundwater levels do not extend off-Reservation. If water levels fall below the thresholds, the GMMP should include mitigation measures that include a reduction or cessation in on-site pumping until water levels in the monitoring wells rise above the thresholds.

Noise

75

37. Noise analysis contains errors and is incomplete. The information used to develop Table 8 is not complete in identifying potential traffic noise impacts generated by the project. The traffic volume data used in the lookup model were based on existing intersection operations rather than segment operations. The vehicle mixes from the Caltrans publication were not properly referenced. The County is only aware of mix data provided by Caltrans for much larger segments along SR-76 that date back to 1996 or older. If the traffic study was used (VARPA 2007) for mix data, the vehicle mix criteria for a traffic noise study are different from the vehicle counts required for a traffic analysis. In general, the peak volume hour usually does not correspond with the peak traffic noise hour. Casino traffic typically does not follow the pattern of commuter traffic and will tend to increase CNEL levels more than would be expected by a general increase in traffic volume. Time-of-day observations of traffic on a 24-hour basis are more appropriate for casinos and other operations that have extended nighttime activities. The information in the document should be revised to reflect this information.

76

38. Noise impacts are underestimated; a more complete model of the project is needed to properly assess noise impacts. Section 3.11, page 61, did not include the relevant County guidelines (2007) for a noise study based on the documentation of existing conditions using site-specific data including traffic volume, mix, speed, topography, and sound level measurements. The TNM Lookup Model Program used in the Draft EA/TEIR is based on a set of

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simplifying assumptions including soft terrain with a straight, infinitely long roadway with all model receptors five feet (1.5 m) above ground. The model assumptions for terrain and vehicle types are extremely limited and are not appropriate for this project. Soft terrain or lawn used in this lookup model is not appropriate for noise modeling in this area when the full TNM (version 2.5) program provides other terrain types in the local noise analysis. Table 8 does not include a vehicle mix for buses that is available in both the lookup TNM Program and the full TNM Program and that is now required for any new Federally-funded highway projects in California. A more complete model of the project implemented by the full TNM Program (version 2.5) would generate better results to analyze the impacts for this project; and would allow for model calibration thereby yielding a more accurate assessment of existing conditions and of the direct and cumulative project-related traffic noise impacts from this project. The lookup model used in the study, and the stated assumptions, resulted in underestimating the potential effects from project-related traffic noise.

77

39. Noise analysis is needed for the wastewater treatment facilities. Section 3.11, page 61, should contain an acoustical analysis that evaluates the potential noise impact to off-Reservation properties from the five-fold expansion of the wastewater treatment facilities. No analysis or equipment specifications were included for any on-site operational noise sources either for normal operation or for standby conditions, although Section 4.11 limits generator testing to daytime hours. If a potential impact was identified and mitigated, the supporting quantitative analysis needs to be included. The County also wishes to point out that the County Noise Ordinance regulations refer to property line sound level limits instead of receptor locations (Please refer to Sections 36.404 and 36.410). The document should be revised to include this information.

78

40. Noise from project-related traffic has not been adequately analyzed. Section 4.11, page 109, mentions the County guidelines for noise, but has not determined the extent of these effects from project-related traffic. The analysis has not stated whether 60 decibels CNEL or the net CNEL increase from existing conditions is the most stringent criterion to be used in any component of this evaluation. A field analysis of the existing acoustical environment (24-hour basis) was not conducted for off-site noise sensitive land uses. Although the direct impact to these uses from the project alone may not be significant, the analysis of cumulative noise in Section 5.1.11 does not even consider project-related traffic in any near-term scenario. We believe this analysis is insufficient, and the document should be revised to properly assess project related traffic noise.

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41. Construction noise analysis has not been adequately analyzed. The discussion is incomplete about the potential impacts from construction activities considering the duration of building phases and scheduling of

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deliveries in Section 4.11, page 109. For example, the roadway improvements, rough grading, and demolition phases of the project were not completely described or analyzed for either temporary or long term noise effects. The County guidelines include duration criteria (exceeds one month of operations within any 3 consecutive calendar months) for evaluating long term construction activities that contribute to the CNEL environment. Again, knowledge of the existing CNEL conditions would be a required starting point for this evaluation. It is possible that prolonged exposure to construction noise levels that range up to 58 or 63 decibels may yield a significant acoustical impact to off-site noise sensitive land uses.

80

42. A site-specific noise study is needed to substantiate the claims made in Sections 4.11 and 6.11 about requiring only two noise mitigation measures for this proposed project. The lack of field measurements and other supporting evidence is a major concern since existing conditions need to be confirmed in order to do a proper evaluation of the Proposed Project's impacts. The comparison of project alternatives on page 20 would need to be updated or improved once the site-specific noise study is completed. Without this additional information, the noise analysis for this project is inadequate.

Public Services – Fire Protection and Emergency Medical Services

81

43. Fire Protection Analysis is practically non-existent and entirely inadequate. The Proposed Project will continuously house hundreds, perhaps thousands of customers and employees, a portion of which would be in a 23-story hotel tower. The Draft EA/TEIR states "The Tribe is planning the expansion of their existing fire station and anticipates that it would be able to respond to calls for fire protection", as mitigation for the potential impacts to fire protection and emergency services. This is totally inadequate. It appears no fire protection professionals were involved in the preparation of this portion of the Draft EA/TEIR. It is not adequate to simply construct the facilities per codes – the project proponent must be able to show that appropriate fire suppression response capability will be in place and operational before the Proposed Project is open for use by the public. The Draft EA/TEIR reaches conclusions that are not supported by substantial evidence and lacks analysis and information on the following:
- a. Occupancy. In the summary of the facility the square footages and use of the proposed buildings are described but not the occupancy. Total building occupancy is needed to adequately evaluate fire protection requirements.
 - b. Water. The report references six water wells that will produce a total of 444,000 gallons per day. If these estimates are accurate, there may be an inadequate water supply for the occupancy of the facility.

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- c. Water-Fire Flow. There is no analysis of the required fire flow or fire hydrant distribution system for the proposed project. Fire flow is a requirement over and above highest daily usage. The proposed 1 million -gallon reservoir may be inadequate for fire protection purposes.
- d. Fire Protection. The description and analysis of fire protection services is wholly inadequate. The County has serious concerns not only about the adequacy of the analysis in the document, but more importantly about the risk that will be posed to patrons and citizens if fire protection services are not fully planned and analyzed to insure capable and professional service to a highly complex series of structures.
- e. Proposed Fire/Emergency Medical Services. The proposal is to rely on the services from other reservations and the Cal Fire Rincon station. Fighting fires and responding to medical emergencies in a high-rise building with such a high occupancy requires a large number of specially trained professional fire fighters and medical personnel. The County believes this proposal is so inadequate that it should be withdrawn from consideration. The risk this proposal would pose to the public health and safety is completely unacceptable, and would create a significant unmitigated impact to public health.
- f. Fire Services. The Draft EA/TEIR must discuss on site fire protection staffing levels and facilities. This type of facility will need a large number of personnel and until this information is provided, the County cannot conclude the adequacy of the proposed Public Services.
- g. Off-Reservation Fire Service Impacts. This Draft EA/TEIR is proposing to have fire services provided by Pala Reservation and Cal Fire (Rincon Station). The Pala Fire Station is approximately 6 miles away with a total response time of nearly 15 minutes. As traffic continues to increase on Highway 76 this response time will continue to increase. In addition, pulling the fire response force away from Pala may have an adverse impact upon the Pala Casino, which needs to be analyzed and mitigated.
- h. Cal Fire Rincon CDF Station. This station is the closest off- Reservation fire facility at approximately 4.8 miles. This facility would need to be upgraded with structural engine(s) and Schedule "A" status. The increase in call volume due to fires, emergency medical calls, and traffic collisions will need to be mitigated as an off-Reservation adverse impact.
- i. Firefighting Equipment. The Draft EA/TEIR must discuss the type and number of fire-fighting apparatus and staffing that will be required to fight fires in upper floors of the casino, hotel and parking structure.

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- j. Traffic. Emergency services are and will continue to be adversely impacted due to additional traffic on SR-76 and adjoining roadways. The impact that increased traffic will have on emergency services should be addressed in the document, and a plan proposed to mitigate the impact of increased traffic on the provision of emergency services.
- k. No evacuation plan is provided. With a multiple-story building and a large number of patrons and employees an evacuation plan is critical in providing adequate fire protection.

Public Services – Police Protection

82

- 44. County agrees with Draft EA/TEIR statements that the Proposed Project will increase the demand for law enforcement services and that the Tribe needs to address these impacts to the County Sheriff Department by paying for an increase in Sheriff personnel and equipment. However, absent an agreement with the Tribe on the amount of funding necessary to mitigate the off-Reservation impact to law enforcement, satisfactory mitigation is not achieved nor assured. In addition to the Sheriff's Department impacts, contributions also are necessary to mitigate County law enforcement resource impacts associated with increases in criminal arrestee detentions, prosecutions and probation.

Solid Waste Impacts

83

- 45. Impacts to landfill capacity must be addressed through solid waste recycling. The Draft EA/TEIR should detail the extent of the project's recycling and solid waste programs during demolition, construction, and post construction operations of the Proposed Project.

Socioeconomic

84

- 46. Draft EA/TEIR fails to adequately address Problem Gambling Prevention. Section 4.15 fails to adequately provide for in-Casino problem gambler intervention, awareness and prevention programs that are industry accepted practices such as self-exclusion and Casino-exclusion programs, refusal to cash welfare and child support payments, etc.

85

- 47. Draft EA/TEIR fails to address Gambling Addiction Treatment. Section 4.15 also fails to address the Tribe's obligations under its State Compact to provide contributions for County's gambling addiction treatment program. As stated in the Draft EA/TEIR, the State does not provide treatment for gambling addiction; it is the County who is working to obtain treatment services for gambling addiction victims and the Proposed Project will increase the need for such treatment services.

Transportation/Traffic

86

48. Traffic impact analysis provided in the Draft EA/TEIR contains errors and incomplete analyses. Without substantial revisions, the information provided in the EA/TEIR is inadequate. The following comments on the Draft EA/TEIR and the Traffic Impact Analysis need to be addressed before appropriate mitigation measures can be identified.

87

49. Alternate transportation methods need to be considered. The Transportation and Traffic analyses are devoid of any consideration of alternate solutions to address traffic the Proposed Project will generate. The Draft EA/TEIR needs to consider expanded use of public transit, park and ride facilities, casino customer shuttles (vans/buses), employee carpooling incentives and employee shuttles, rather than only focusing on improvements to existing roads.

88

50. The Draft EA/TEIR and Traffic Impact Analysis (TIA) project descriptions are not consistent. As previously noted, the TIA project description on pages 1 and 1-1 should correlate with the project description in the Draft EA/TEIR page S-1 and Table 1, page 14. The revised traffic analysis summarized in the Draft EA/TEIR should correlate with any revisions made to the TIA.

89

51. The Draft EA/TEIR on page 16 notes that traffic improvements (mitigation) will follow improvements as described in the Reservation Transportation Authority (RTA) SR-76 Corridor Study. While the study has been completed, the scope of the study was not adequate to identify specific, major improvements to SR 76. Additional coordination with Caltrans is needed to identify specific improvements projects for implementation in the SR 76 corridor.

90

52. Contributions to RTA do not mitigate traffic impacts. One of the Draft EA/TEIR proposed mitigation measures is to provide funding to the RTA for improvements to the SR76/I-15 intersection. Any such contribution would need to be directed to Caltrans, the owner of the facility, not the RTA. In addition, specific improvement projects would need to be identified, and a schedule for these projects' completion set forth; and a fair share analysis of the Tribe's contribution, and the ultimate funding sources for the improvement projects, would need to be identified in order for such mitigation measures to be found adequate.

Traffic Impact Analysis (TIA)

91

53. The County's adopted Significance Criteria/Traffic Impact Guidelines dated September 2006 should be used to determine the project's direct and/or cumulative traffic impacts.

- 92 [54. Table 3-1 needs additional information. Table 3-1 notes the size of the expanded gaming area is 53,500 square feet, which represents the new gaming area minus the existing gaming area. Table 3-1 should note the square footage of the new gaming area and the existing gaming area. The inconsistent project descriptions in the Draft EA/TEIR and TIA make it impossible to determine if the trip generation estimate shown in Table 3-1 was calculated correctly.
- 93 [55. Traffic impacts of the Proposed Project are significantly underestimated. The TIA identifies a trip rate of 61.9 trips per 1,000 square feet of gaming area, which is much less than the established trip rate of 100 trips per 1,000 square feet of casino gaming area that has been used for several other local tribal casino traffic analyses. The TIA should explain why the lower gaming area trip rate is more valid than the standard trip generation rate used for other proposed tribal casino projects. It should be noted that when the standard (100 ADT/K.sq.ft) casino gaming area trip rate is used, the Proposed Project would generate 6,550 daily trips not 4,512 daily trips as used in the Draft EA/TEIR.
- 94 [56. The TIA should include the 1,500-seat Event Center in the project's trip generation estimate. A full capacity event at the Event Center would likely generate a substantial volume of traffic that would not be completely accounted for in the casino gaming area trip rate.
- 95 [57. Cumulative impacts to Cole Grade Road and Valley Center Road should be identified and mitigated. Per Figure 22, a portion of the project's trips will be distributed onto County Roads, including Cole Grade Road and Valley Center Road. Once the accurate trip generation numbers are developed, and impacts are analyzed, appropriate mitigation measures for these road segments need to be identified.
- 96 [58. The TIA's mitigation summary, Section 5.0, page 5-1, should correlate and include any and all proposed traffic mitigation that is recommended in the Draft EA/TEIR pages 153-154. The TIA does not discuss contributing a fair share to County road segments as stated in the recommended mitigation measures of the Draft EA/TEIR, Section 6.16, page 153.
- 97 [59. The Analysis Methodology section (3.1) should state the reasoning for only analyzing the PM peak hour and not the AM peak hour.
- 98 [60. An assessment of the project's impacts to regional transportation facilities such as I-15 and SR-76 should be provided. The trips generated by the proposed project will exceed the 2,400 ADT threshold identified in the Congestion Management Program (CMP) for the San Diego Region. The assessment should utilize the criteria outlined in the CMP.

- 99 [61. The TIA should include an analysis of the I-15/SR-76 ramps and the connecting segments of I-15. The TIA currently only analyzes the ramp intersections.
- 100 [62. A traffic signal warrant should be provided for any proposed signals. The TIA recommends a traffic signal at SR-76 and Pauma Reservation Road.
- 101 [63. Conceptual striping and signing plans for the proposed improvements to the intersection of SR-76 and Pauma Reservation Road should be included in the traffic analysis. The TIA should also note if additional ROW is needed to accommodate the proposed intersection lane improvements. The Tribe should coordinate with Caltrans and the County DPW Traffic Section in developing the design for the proposed intersection. Caltrans and the County will require construction and encroachment permits for any work performed within the agencies' right-of-way.
- 102 [64. In addition to Table 4-1 (Intersection Operations, with Mitigation), the TIA should provide a roadway segment LOS table with Mitigation.
- 103 [65. The TIA should provide a summary table that identifies the project's significant traffic impacts and corresponding proposed improvements and mitigation measures.
- 104 [66. The TIA should more clearly identify the project's direct impact to the SR-76 roadway segments and provide recommended mitigation measures to address the roadway segment impacts. The proposed project will add over 4,000 daily trips (6,000 daily trips once trip generation is correctly calculated) to the segment of SR-76 from the project site to I-15 which is a two-lane highway that currently operates at a poor LOS. A fair-share contribution alone as proposed by the Draft EA/TEIR and TIA would not fully mitigate the project's direct impact to SR-76 from project site to I-15.
- 105 [67. The TIA, page 4-2, states that for the segment of SR-76 west of I-15, SANDAG is leading a funded corridor study to improve this area of SR-76 and therefore mitigation is not necessary. If the proposed project will result in a significant impact to SR-76 west of I-15, the TIA should identify the project's traffic impact and provide recommended mitigation measures.
- 106 [68. The TIA should document that the recommended mitigation measures will fully mitigate all of the project's significant traffic impacts to SR-76 and connecting County roads.
- 107 [69. The TIA should delete the references to individual County staff persons on page 7-1.

Utilities and Service Systems – Wastewater

- 108 [70. Additional information is needed to evaluate adequacy of proposed wastewater system. No technical study for the proposed wastewater system was submitted in support of the Draft EA/TEIR and, therefore, an engineering evaluation of the design basis or technical feasibility of the proposed wastewater treatment and disposal system cannot be completed. In concept, expansion of the existing Membrane Bioreactor plant to provide wastewater treatment for the proposed project appears to be suitable; however, in the absence of engineering calculations, design criteria and site plans, an assessment of the feasibility of such an expansion could not be determined.
- 109 [71. Significant questions/issues that may affect the feasibility of the proposed wastewater treatment and disposal system include:
- 110 [a. Apparent overestimation of reclaimed water volume. The Draft EA/TEIR assumes that consumption of potable water supplied from wells will equal the wastewater rate generated by the project (i.e. all water used will be returned to sanitary sewers) and that ninety percent of the influent wastewater will be recovered for beneficial reuse as irrigation supply. These assumptions exceed industry standards for wastewater generation rates and expected reclaimed water production rates. While these assumptions would lead to conservative estimates for plant sizing, they in turn may result in overestimation of the amount of reclaimed water produced, which will affect the basis for determining the net increase in water usage that will result from project implementation.
- 110 [b. Lack of detail regarding feasibility of actually being able to use the large volume of reclaimed water that is assumed to offset groundwater demand. The proposed effluent disposal system will require a significant expansion of the on-site reclaimed water irrigation system. A detailed irrigation plan would need to be developed to demonstrate that the effluent could be adequately disposed of under all weather conditions.
- 111 [c. Large wet-weather wastewater effluent storage requirement is not mentioned. The Draft EA/TEIR does not indicate provisions for wet-weather effluent storage. While the project would not be under State Water Resources Control Board regulation (but will likely fall under USEPA regulation), similar treatment and disposal systems in Southern California generally are required to maintain 84 days of effluent storage capacity. Based on the flow rates provided in the Draft EA/TEIR, the project would be required to construct over 19 million gallons of storage capacity. Barring construction of on-site storage, the project would have to demonstrate a plan to store or dispose of effluent during conditions of

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limited or restricted irrigation. Note that the Draft EA/TEIR states that no off-Reservation effluent discharge is proposed.

112

- d. Large area needed for wastewater treatment plant. Expansion of the treatment plant will require significant expansion of facility footprints, including additional reactor units, solids handling (e.g. drying beds), influent basins and pumps, effluent disinfection, and chemical and equipment storage. A detailed site plan would need to be developed to evaluate the feasibility of expanding the plant within existing site constraints, and the impacts such an expansion would cause.

Timing of Mitigation Measures

113

72. Adequacy of mitigation measures cannot be determined because timing of mitigation measures are not described in the Draft EA/TEIR. Timely implementation of all mitigation measures is essential. The Draft EA/TEIR is silent regarding timing of mitigation measures such as off-Reservation road improvements, construction of wastewater treatment plant expansion, expansion of the Reservation fire department, construction of water reclamation facilities, and other mitigation measures. Upon appropriate analyses as described in this comment letter, additional mitigation measures are expected to be necessary and also must be implemented before impacts occur. In order to mitigate Proposed Project impacts, mitigation measures should be implemented and in place prior to the occurrence of the impacts.

Cumulative Impacts

114

73. The cumulative impact analysis is inadequate. The reasoning that cumulative impacts are not significant because project impacts are not significant misses the intent of a cumulative impact analysis. The cumulative impact analysis should address all issues for which the project has an incremental, though not necessarily significant, effect that combines with effects from other projects.

115

74. Two of the projects in the cumulative projects list should be removed because they are built and are considered part of the existing conditions. These are the Harrah's Rincon Casino and the Santa Ysabel Casino.

116

The County's comments on the Draft EA/TEIR relate to off-Reservation impacts from the Proposed Project. Due to our extensive concerns regarding the Draft EA/TEIR deficiencies in determining the Proposed Project's off-Reservation impacts, it is requested that a meeting of Tribal and County representatives be scheduled to review the issues contained in this comment letter. It is the County's opinion that the EA/TEIR is not adequate as drafted, and that the

Dr. Baksh
September 21, 2007
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document should be revised as requested in this comment letter and a second review of the document be undertaken.

Please contact John Snyder at (858) 694-2233 to schedule this meeting, or if you have any questions.

Sincerely,



CHANTAL SAIPE
Tribal Liaison

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September 21, 2007

File Number 70003

Dr. Michael G. Baksh
Tierra Environmental Services
9915 Businesspark Avenue, Suite C
San Diego, CA 92131

Dear Dr. Baksh:

MEMBER AGENCIES

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Unified Port District

San Diego County
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Southern California
Tribal Chairmen's Association

Mexico

SUBJECT: SANDAG Comments on Draft Environmental Assessment/Tribal Environmental Impact Report for the proposed construction and operation of a gaming and hotel facility by the Pauma Band of Mission Indians

Thank you for the opportunity to review the Draft Environmental Assessment/Tribal Environmental Impact Report (EA/TEIR) for the proposed tribal casino and hotel project which will replace the temporary facility currently on trust lands of the Pauma Band of Mission Indians.

SANDAG commends the Pauma Band of Mission Indians for their active involvement in the Interagency Technical Working Group on Tribal Transportation Issues. In addition, Pauma has been active in regional policy issues through its participation in the Southern California Tribal Chairmen's Association (SCTCA). SANDAG believes that through government-to-government dialogue and discussion meaningful solutions can be developed for long-range regional and transportation planning that respects the sovereign rights of tribal nations to develop, while understanding the need to develop common principles for maintaining the quality of life of the region for all of its inhabitants.

SANDAG has reviewed this project in relation to the policy frameworks established by the Regional Comprehensive Plan (RCP), the Regional Transportation Plan (RTP), and the Congestion Management Plan (CMP). SANDAG is the designated Congestion Management Agency (CMA) for the San Diego region. In this role, SANDAG must develop, adopt, and regularly update the Congestion Management Program (CMP), the latest of which was completed in 2006. State Route (SR) 76 is an important highway in the region and part of the designated CMP network. This review of the Pauma Reservation Casino EA/TEIR is based on the SANDAG process for Congestion Management Document Review.

The goal of the Congestion Management Program (CMP) is to ensure appropriate mitigation of significant impacts due to new large projects on the CMP system through use of congestion management strategies (roadway or transit improvements and/or non-traditional approaches, such as Transportation Demand Management) contained within the CMP.

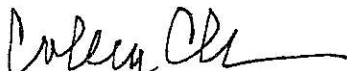
An enhanced CEQA review process has been established for use by local jurisdictions and/or project sponsors to conduct traffic impact studies and provide mitigation for new large project impacts on the CMP transportation system. A large project is defined as generating an equivalent of 2,400 or more average daily vehicle trips (ADT) or 200 or more peak-hour vehicle trips. According to the Draft EA/TEIR, this new 110,000 sq. ft. casino will create 4,512 ADT, with 316 peak hour trips which exceeds the CMP threshold.

Comments

- 117 [1. **Project Description:** The project descriptions are inconsistent between the Draft EA/TEIR and the Traffic Impact Analysis (Appendix F). In the main document, the project is described as an 110,000 square foot new casino, while the Traffic Impact Analysis describes an 117,000 square foot new casino. This needs to be clarified in order to evaluate the traffic impact.
- 118 [2. **Trip Generation and Forecasted ADTs:** The standard formula for calculating ADTs for gaming facilities is 100 trips per 1,000 sq.ft. for determining trip generation. The Draft EA/TEIR uses 61.9 trips per 1,000 sq.ft. The justification for not using the standard should be clarified. Horizon year ADTs, with and without the project, do not correlate with recent SANDAG model results for the draft 2007 RTP. Those 2030 runs show a base 2030 volume of more than 19,000 ADT on SR 76 west of the project. The traffic impact analysis should be revised or explained as to the differences from the draft 2007 RTP forecast.
- 119 [3. **Mitigation Measures based on RTA/Caltrans SR 76 Operational Improvements Study:** The mitigation measures (p. 16) mentioned in the Draft EA/TEIR are based on the recommendations of the SR 76 Operational Improvements Study conducted by Caltrans and the Reservation Transportation Authority (RTA). That study addressed operational improvements only for the existing conditions, not for future conditions. Mitigation measures should include fair share contributions to future transportation improvements.
- 120 [4. **Transportation Demand Management (TDM) Measures:** The Draft EA/TEIR does not address alternative solutions to address traffic impacts such as expanded transit, park and ride facilities, vanpools for employees and patrons, and shuttles. We recommend that Pauma actively participate in the Tribal TDM program being developed with the Reservation Transportation Authority (RTA) as well as considering other TDM measures to mitigate the traffic impacts of this project.
- 121 [Developing a mix of travel choices would greatly enhance the carrying capacity of nearby roads, expanded or not. Many other local casinos have established shuttle routes from nearby transit stations and other regional private bus services. Plans for similar programs would fulfill some of the necessary mitigation requirements associated with this project. By establishing a transit mode-share, mobility can be improved.
- [SANDAG would appreciate the opportunity to meet with you to discuss our comments and possible mitigation measures that comply with CMP guidelines.

Thank you for your consideration. If you have any questions, please contact me at (619) 699-1944.

Sincerely,



COLEEN CLEMENTSON
Principal Planner, Land Use and Transportation Planning

JCL/mwo

**PALA PAUMA SPONSOR GROUP
PO Box 1273
Pauma Valley, CA 92061**

September 13, 2007

Mr. Michael G. Baksh, P.H.D.
Tierra Environmental Services
Suite C
9915 Businesspark Avenue
San Diego, CA 92131

**RE: DRAFT TRIBAL ENVIRONMENTAL IMPACT REPORT FOR THE
PAUMA CASINO AND HOTEL, DATED JULY 27, 2007**

Dear Sirs:

The Pala Pauma Community Sponsor Group held a noticed public hearing at its regularly scheduled September 5, 2007 meeting to discuss the above referenced environmental document and its associated proposed mitigations for the Pauma Resort and Casino project. After taking public testimony and comments, the Sponsor Group voted unanimously to send this letter listing our concerns as well as those areas where the proposed mitigations for specific impacts of the project were inadequate to fully mitigate these impacts.

By far the greatest impact of project implementation is both the short term as well as long term increases in project related traffic. The project needs to include the following revisions to offset its significant traffic impacts:

RESERVATION ROAD

- Signalize intersection with Highway 76
- Provide adequate and safe bus turn out lanes for buses using Highway 76
- Correct existing drainage deficiencies on Reservation Road travel lanes
- Provide pedestrian pathway from Highway 76 to resort/casino; decomposed granite walkway rather than concrete sidewalk to maintain community character while providing for pedestrian safety
- Restrict parking along Reservation Road
- Provide adequate turning lanes and through lanes for all directions of traffic

COLE GRADE ROAD

- Signalize intersection
- Provide adequate turning lanes and through lanes for all directions of traffic

124

PUBLIC TRANSIT PROVISIONS

- Work with North County Transit, etc. to provide bus stop at casino
- Work with North County Transit, other reservations, etc. to provide service between casinos and to park and ride facility to be located at I-15 and Highway 76 (shuttle service)
- Provide funding to create park and ride facility at Highway 76 and I-15; consideration should be given to requiring employees to utilize shuttle service from this location; this would eliminate existing automobile trips from Highway 76 as well as many future ones.
- Provide funding and work with other tribes, Reservation Transportation Authority, SANDAG, CalTrans, etc. to plan for long term Highway 76 transit improvements. Consideration should be given to shuttle only/bus only transit lanes; alternative routes and/or alignments; ride share, van share and other ride sharing strategies; provide alternative financing techniques such as toll road development or the formation of a public-private agency to oversee and coordinate corridor improvements.

125

HIGHWAY 76

- Provide fair share contribution to ultimate improvement (monies spent to implement above mitigations should count towards fair share)
- Implementation of design parameters through CalTrans to limit highway access, provide passing lanes, lower design speeds, provide better signage, etc. as short term mitigation

126

PUBLIC SERVICES

- Provide annual fair share contribution to County Sheriff to fund additional police and emergency protection services
- Explore ways to provide for emergency access/fire access along Highway 76 as primary means to enter and exit region
- Provide annual fair share contribution to fund programs designed to help problem gamblers, etc.
- Assure project complies with FAA Guidelines and public safety guidelines for airports

127

LIGHTING

- Implement County of San Diego Dark Skies Lighting Ordinance; work with Palomar Observatory to minimize lighting effects of project
- Eliminate all unshielded light sources

128

WATER/RUN-OFF

- Limit groundwater use to absolute minimum possible; at such time as secondary water source becomes available, either utilize imported water and decrease use of groundwater or make additional source of water available to neighbors

128
(cont.)

- As secondary treated effluent becomes available, consider providing surplus to neighboring properties; also make this water available to irrigate landscaping along Highway 76
- Utilize porous and semi-porous pavement for parking lots and other hardscape areas to aid in groundwater recharge and limit run-off

129

AESTHETICS

- The location of a 23 story tower in the center of the valley will dramatically affect the existing community character and view shed for the residents of Pauma Valley. A reduced height for the hotel could mitigate this effect.
- Utilize native plantings to screen parking lots from view of Highway 76; add trees and landscaping within parking lots to limit reflected heat and glare

The Sponsor Group is grateful for the opportunity to comment on this draft document. Should you have any questions about our comments, Please call the undersigned.

Sincerely,

PALA-PAUMA SPONSOR GROUP


Joe Chisholm
Chair

cc: County of San Diego
CalTrans

Valley Center Community Planning Group



Keith Simpson
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Vice Chairman
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David Montross

Leon Schwartz

Frank Shoemaker

Susan Simpson

Terry
Van Koughnett

Cindy Wallace

Andy Washburn

September 19, 2007

Michael Baksh
Tierra Environmental Services
9915 Businesspark Avenue, Suite C
San Diego, California 92131

The Valley Center Community Planning Group (VCCPG) has reviewed the Draft Environmental Assessment and Tribal Environmental Impact Report for the Pauma Casino and Hotel for the development of the permanent hotel and casino by Foxwoods Management Pauma LLC.

As a neighbor of the Pauma Tribe, the community of Valley Center will be affected both directly and indirectly by this project, as we are affected by all business developments in the area. Our primary goal is to enhance and preserve our community and we strongly urge this development to consider the impact of this project on public safety.

130 Considering the ongoing threat of wildfires and other possible disasters in this area, we are asking that the development respond to the long-term impacts on public safety. This area has very limited access in and out of the area, and this project will add an estimated 4512 ADT's to Hwy 76, with 8% traveling east and 90% west of the project. This additional traffic will increase the traffic on Hwy 76 about 40%, from 11,000 ADT's currently to around 16,000 ADT's, and does not include the additional impacts of other planned developments along the highway. This significant incremental increase is expected to reduce the Level of Service to LOS D, E, and sometimes F along the road. In the event of an emergency evacuation from Valley Center or from the other communities or reservations east of the project, a significant impact on Hwy 76 would strongly impact the safety of the community and could increase the chance of death or other serious injuries to residents and visitors.

131 The VCCPG encourages the participation by the Pauma Tribe and Foxwoods Management Pauma LLC in a long-term collaborative effort to implement comprehensive solutions for the mitigation of traffic impacts, especially to improve traffic flow along Hwy 76 corridor and the adjoining communities. The recent RTA/CalTrans study identified many areas of concern along the Hwy 76 corridor, and several of these are addressed in the DTEIR, but the VCCPG encourages participation beyond the minimum required mitigation. Traffic improvements will not only improve public safety, but will enhance the experience of visitors to the casino and surrounding area.

As a further step toward long-term solutions, we also encourage the implementation of the planned transit center at I-15 and Hwy 76 into the current casino expansion plans, as an optional "park and ride" for employees or guests to the hotel and casino. This would require shuttle service to and from the casino.

As an additional long-term solution to traffic impact mitigation, we encourage collaboration with other casinos along the Hwy 76 corridor to implement a transit shuttle for customers, basically a bus service between area casinos, and possibly connecting to the planned I-15 transit center. We believe this will enhance the visitors' experience and will significantly improve public safety in the community.

Thank you for this opportunity to comment on the Pauma DTEIR.



Terry Van Koughnett
Chairman, Tribal Liaison Subcommittee
Valley Center Community Planning Group
P.O. Box 127
Valley Center, CA 92082-0127

cc:

Chris Devers, Chairman
Pauma-Band of Luisefio Indians



September 12, 2007

Dr. Michael Baksh
Tierra Environmental Services
9915 Businesspark Avenue, Suite C
San Diego, CA 92131

RE: Casino Pauma Draft Environmental Assessment/Tribal Environmental Impact Report

Dear Dr. Baksh:

Thank you for the opportunity to review the Draft Environmental Assessment/Tribal Environmental Impact Report (EA/TEIR) for the Casino Pauma project, which is proposed to construct a casino, hotel, parking structure, and improvements to the Pauma Reservation Road/SR-76 intersection, on the Pauma Indian Reservation on State Route 76.

The North County Transit District (NCTD) currently operates fixed route bus service seven days a week along this portion of State Route 76. This bus service (Route 388) connects Casino Pauma with the Valley Center community, and other regional bus service at Palomar Medical Center and the Escondido Transit Center.

NCTD requests that the TEIR address pedestrian circulation and encouraging alternative modes of transportation that link Casino Pauma with Escondido.

These comments are identified below:

133 [1. Pedestrian circulation through the development:

The TEIR should include an analysis of pedestrian circulation through the development. The impact of the proposed development on pedestrian circulation to and from any future bus stop and the parking structure, casino, hotel, spa, events center, and administrative offices should be determined. In addition, all pedestrian paths included in this analysis should be ADA-compliant.

134 [2. Reducing automobile trips by encouraging alternative modes:

The TEIR should include an analysis of measures designed to encourage alternative modes of transportation, particularly for employees:

- a. Initiate a Transportation Demand Management (TDM) program to encourage transit use by employees –
 - Offer pre-paid free or greatly reduced transit passes to employees;

- 134 (cont.)
- Clearly identify how many parking spaces within the development are designated for employees versus visitors – implementation of a TDM program could reduce the number of parking spaces required for employees
 - Designate a transportation coordinator for employees
 - Work with SANDAG to encourage vanpools and ridematching.
- 135
- b. Fund additional transit services for a demonstration period (5 years) to encourage transit use by employees and visitors including:
- Fund additional service on Route 388 to provide more frequent and faster service. Current service occurs at intervals of every three hours.
- 136
- c. Incorporate a centrally located internal bus stop location that provides convenient access for employees and visitors to and from the casino, hotel, spa, and other facilities onsite.
- 137
- Implementation of these measures would reduce the amount of car trips generated by this development, and could reduce the overall need for parking spaces.
- 138
- NCTD will be pleased to work with you to successfully address the needs listed above. If you have any questions regarding our comments, please feel free to contact me at (760) 966-6546 or by email at kluhrsen@nctd.org.

Sincerely,



Kurt Luhrsen
Principal Planner

Cc: NCTD Board
Bob Leiter, SANDAG
Chris Schmidt, Caltrans District 11

PALOMAR OBSERVATORY
CALIFORNIA INSTITUTE OF TECHNOLOGY
P.O. BOX 200
PALOMAR MOUNTAIN, CA 92060

Telephone (760)742-2111, Fax (760)742-1728, Email: wsk@astro.caltech.edu

September 14, 2007

Dr. Michael Baksh
Tierra Environmental Services
9915 Businesspark Ave., Suite E
San Diego, CA 92082

Dr. Baksh,

On behalf of the Palomar Observatory I would like to take this opportunity to comment on the Draft Environmental Assessment and Tribal Environmental Impact Report for the Pauma Casino and Hotel.

The research done at Palomar depends on dark skies. The rapid population growth of Southern California has brought increased lighting into the region which has threatened these dark skies. The recent appearance of tribal gaming in the area has also had a demonstrable affect by increasing the light pollution in the area.

Fortunately much of the lighting currently in place at Casino Pauma is astronomy friendly low-pressure sodium light. Further, the observatory greatly appreciates the Tribe's recent move to turn off the casino's search lights.

139

The proposed project is located less than seven miles from the Palomar Observatory and it has the potential to severely impact our astronomical research. Because of the project's close proximity to the observatory it is imperative that all proposed outdoor lighting for the project conform to the guidelines set forth in San Diego County's Light Pollution Code (Division 9, Sections 59.101--59.115). The Light Pollution Code is intended to "minimize light pollution for the enjoyment and use of property and the night environment by the citizens of San Diego County and to protect the Palomar and Mount Laguna observatories from the effects of light pollution that have a detrimental effect on astronomical research." The County's Light Pollution Code calls for all outdoor lighting located within 15 miles of the Palomar Observatory to be carefully controlled. Ordinances, such as this one, have allowed the observatory to continue its scientific mission.

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Of great concern on the new project will be the lighting on the 23 story hotel. A similar structure at another casino is one of the largest sources of damaging light in the area. However, signage and lighting on the building can be done in a manner that is secure, attractive and protects the night sky.

140

It is also important to pay careful attention to any temporary lighting that may be used during the construction phase of the project. Possibly because of its temporary nature, the impact of construction lighting on dark skies is often ignored. Yet most construction lighting is totally unshielded, greatly illuminating both the ground and sky. I hope that any construction lighting will be properly shielded so as to maximize work illumination and minimize scattering, glare and wasted light.

By moving to preserve dark skies the view of the night sky will be preserved for the members of the Tribe and the researchers at the observatory. I look forward to working with representatives of the Pauma Band of Mission Indians on the issue of outdoor lighting so that we may both continue to enjoy the benefits of the area.

Sincerely,



W. Scott Kardel
Palomar Observatory

cc: Chantal Saipe, Tribal Liaison
County of San Diego
1600 Pacific Highway, Rm. 212
MS A-6
San Diego, CA 92101

San Luis Rey

MUNICIPAL WATER DISTRICT

5328 Highway 76 • Fallbrook, California 92028

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District Legal Counsel

Susan M. Trager

September 19, 2007

Dr. Michael G. Baksh
Tierra Environmental Services
9915 Businesspark Avenue, Suite C
San Diego, CA 92131

Re: Draft Environmental Assessment and Tribal Environmental Impact Report for the
Pauma Casino and Hotel

Dear Dr. Baksh:

The San Luis Rey Municipal Water District ("District") appreciates the opportunity to comment on the Draft Environmental Assessment and Tribal Environmental Impact Report ("TEIR") for the Pauma Casino and Hotel (the "Project") prepared for the National Indian Gaming Commission and the Pauma Band of Mission Indians (collectively, the "Tribe").

Interest of San Luis Rey Municipal Water District

The District is a special district organized under the California Municipal Water District Law of 1911, Water Code section 71000, et seq. Its service area is located in the northern portion of San Diego County along State Route 76, east of the I-15 freeway. Since the District's formation in 1958, it has taken an active role in protecting the quantity and quality of local water resources, including the San Luis Rey River and its tributaries within the District's service area. The San Luis Rey River and groundwater basins fed by the River are currently the sole source of water to properties within the District.

Recent events establish that maintaining and improving the quality and quantity of local water resources, including the San Luis Rey River, is more important than ever before. Southern California is in its eighth year of an extended drought, and the 2007 water year is Southern California's driest year in recorded history. (See September 6, 2007 news article, attached as Exhibit 1.)

Dr. Michael Baksh
September 19, 2007
Page 2

The District recently approved a master plan of water, wastewater and recycled water service to landowners in the District (the "Master Plan"). The Master Plan, which was drafted in 2006, contemplates that the sole source of water would be the Metropolitan Water District of Southern California's ("MWD") potable water in the pipelines that extend to the west of the District. Whether this approach remains feasible is uncertain, especially given the litigation involving the Delta smelt, a species protected under the federal Endangered Species Act. (*Natural Resources Defense Council v. Kempthorne*, E.D. Cal. No. 05-CV-1207-OWW.) On August 31, 2007, Judge Wanger, the judge hearing this case, held a hearing and issued an oral ruling on interim remedies. (Transcript of the hearing is attached as Exhibit 2.) The district is aware that other litigation that may affect pumping for the Bay-Delta is pending in Judge Wanger's court. The District believes that the impact of all of the litigation will be a substantial long-term reduction in the quantity and reliability of water that can be pumped out of the Bay-Delta and delivered to MWD under MWD's State Water Project ("SWP") allocation. SWP water is a major component of MWD's water portfolio. So, the likely long-term reduction in MWD's allocation from the SWP means that the District is looking much more closely at ensuring the long-term reliability of local water, including the San Luis Rey River, the basins it supplies, and its tributaries.

Summary of Comments

141

Given the drought and the loss of reliability of water from the SWP, ensuring the long-term protection of local water resources is critical. The draft TEIR fails to analyze adequately the impacts of the proposed water use and wastewater discharge on the off-Reservation local water environment, both individually and cumulatively, with other users of local water resources, including but not limited to the Pala Band of Mission Indians' Hotel and Casino Project and local agricultural uses. The draft TEIR must be revised to develop this analysis, and the Intergovernmental Agreement to be entered into between the Tribe and the County of San Diego ("County") must contain sufficient monitoring and enforcement provisions to ensure that the Project, both individually and cumulatively, will have no impact on the off-Reservation local water environment.

Water Supply Is Inadequately Analyzed

142

The District appreciates the commitment of the Tribe that the Project has no off-Reservation impacts to water. However, the District believes that the TEIR needs further information before the Tribe can justify its conclusion of no adverse water impact.

There is no analysis of the long term safe yield of the groundwater basin. If the groundwater basin from which the Tribe will be pumping is already in overdraft, then the Project may have a significant off-Reservation impact by contributing to the depletion of the basin.

Dr. Michael Baksh
September 19, 2007
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Also, there is no analysis of the relationship of the groundwater basin to the San Luis Rey River so there is no ability to determine whether increased groundwater pumping may have adverse off-Reservation impacts on the San Luis Rey River.

There is no analysis of the historic production of Pauma Creek, so there is no information about the long-term reliability of Pauma Creek in supplementing groundwater pumping.

The cumulative impact analysis does not recognize the existence of other users and water rights holders in the San Luis Rey River. Landowners within the District hold and exercise rights to waters associated with the San Luis Rey River, including rights to groundwater fed by the River. If the required re-analysis of the impacts of the Project to local water demonstrates any impact at all to off-Reservation water supply, a cumulative impacts analysis must be done.

The generic statement that additional surface water may be imported is inadequate. There is no discussion of the amount of imported water that may be available, the impediments to developing an imported water supply, or the off-Reservation impacts to the area from which the imported water is to be drawn. (*See Vineyard Area Citizens For Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412 [53 Cal.Rptr.3d 821].)

In summary, there is no substantial evidence in the draft TEIR to support the conclusion that there will be no off-Reservation impacts attributable to the water demand of the Project. The TEIR should be revised to establish that such evidence exists.

In order to ensure that the Project in fact has no adverse impacts to water, at a minimum, the Intergovernmental Agreement should require that the Tribe maximize the use of recycled water, and, if the Tribe cannot establish to the satisfaction of the County that the groundwater basin is staying in long-term balance over the life of the Project, further require that aggregate net loss of water to the groundwater basin be offset by a reduction in other consumptive uses such as agriculture. These requirements should be enforceable through third-party monitoring of the groundwater basin.

Impacts of Wastewater Discharge are Inadequately Analyzed

The District appreciates the commitment of the Tribe that the Project has no off-Reservation impacts attributable to wastewater discharge. However, the District believes that the TEIR needs further information before the Tribe can justify its conclusion of no adverse off-Reservation wastewater discharge impact.

The TEIR is not clear as to whether the Infiltrator system will be lengthened to accommodate the increased effluent flows from the treatment system, nor is it clear that the Tribe

142
(cont.)

143

Dr. Michael Baksh
September 19, 2007
Page 4

has committed to maintaining groves of sufficient size that will result in the uptake of the treated effluent flows, and their associated contaminants, for the life of the Project.

Because the TEIR does not contain an adequate analysis of the characteristics of the groundwater basin underlying the Project, it is impossible to determine whether the contaminants in the treated effluent stream and the disinfection by-products will remain in the basin in perpetuity or may migrate downstream.

143
(cont.)

So long as it is a reasonable possibility that the disinfection by-products and contaminant loads in the effluent, including but not limited to salts, nutrients and chlorides, could migrate off-Reservation, the TEIR cannot legitimately conclude that there is no adverse off-Reservation impact associated with the discharge of wastewater.

In order to ensure that the Project has no adverse off-Reservation impact from the discharge of wastewater, the Intergovernmental Agreement should either require that effluent be treated to a higher standard and the associated waste stream adequately disposed of, or the Tribe should be required to model, to the County's satisfaction, the long-term fate and transport of the salts, nutrients and chlorides in the groundwater basin. These requirements should be enforceable through third-party monitoring of the groundwater basin.

Conclusion

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The District believes that the Project has merit, both in developing a sustainable revenue stream for the Tribe and in promoting the economic development for the region. The District commends the Tribe in its efforts to ensure that the Project will not have adverse environmental impacts off-Reservation. The District requests only that the TEIR more thoroughly analyze the various means by which the Project possibly could have off-Reservation water-related impacts, as to prevent these risks from occurring, and that the Intergovernmental Agreement contain the necessary measures to ensure that the no off-Reservation impact standard continues to be met over the future life of the Project.

Sincerely,



Victor S. Pankey, President
San Luis Rey Municipal Water District

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Expert: Calif. 'Perfect Drought' Could Span 100 Years

In 2007, Parts of Southland Got Less Rain than Death Valley

 By Dallas Raines

Sept. 6, 2007 (KABC-TV) - Southern California is now in its eighth year of an extended drought. But what would happen if that drought lasted for decades, or even a century? Some experts say the pieces are falling into place for a so-called "perfect drought," and it could have devastating consequences for California.

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Higher temperatures, less water, and more wildfires -- the effects of global climate change can already be seen here in Southern California. And when you combine climate change with drought conditions, the consequences can be severe. Some say we're in the middle of a historic drought.

2007 will go down on the books as Southern California's driest year in recorded history. Fires raged out of control. Millions of dollars were lost as California crops shrivel in the searing sun. And the Eastern Sierras, where L.A. gets most of its water, marked its second lowest snowpack on record.

It's a recipe for disaster, or as one expert calls it -- the perfect drought.

"The idea of a perfect drought plays off the idea of a perfect storm," said Glen MacDonald with the Department of Geography at UCLA. "It's a convergence of natural or man-made effects that lead to a somewhat unexpected, but catastrophic result."

A so-called perfect drought would last not one or two years, but a decade or more. Scientists studying ancient tree rings have found evidence of epic droughts in Southern California, with some lasting as long as 100 years.

"You can't say with 100-percent probability, but we are putting into place the pieces for a perfect drought," said MacDonald.

This year, parts of Southern California got less rainfall than Death Valley.

"We didn't plant this time for the first time in 85 years," said Betty Bouris of Bouris Ranches.

The Bouris family has been farming in Riverside County since 1922. This year, the lack of rain forced them to lay off long-time employees and auction off their farming equipment.

"I think it hit home to me when I walked into the parts room that was absolutely stocked, and I went in there and all the shelves are empty because all the parts were sold," said Bouris.

It's a growing crisis across the American Southwest as a whole. The region is now in its eighth year of an extended drought.

Lake Mead, the nation's largest man-made reservoir, stands at less than half its normal levels. California's predicted population explosion will further strain already scarce water resources.

"California could have 50 million people by 30- or 40-years from now," said Dan Cayan, a climate researcher for the Scripps Institute and the USGS.

Water conservation in L.A. -- now voluntary -- could turn into mandatory water rationing in the not too distant future.

"If this continues for another year or two like this, we'll have a full-fledged drought and we'll need to take more drastic steps," said David Nahai, president of Department Water and Power (DWP).

Drastic steps, such as a return of the drought busters who roamed the streets of L.A. Issuing citations during our last major drought from '87 to '92.

Drought conditions promote wildfires, like the one in Lake Tahoe that destroyed more than 200 homes; or the Zaca fire in Ventura County, which is now the second largest in California history.

The San Bernardino forest is tinder dry -- a million dead trees killed by bark beetles and the drought. Thousand Oaks hillsides are still scorched from a fire in January.

"If you look around you, the Chaparral, the coastal sage, it's absolutely tinder dry," said MacDonald. "It takes nothing to ignite this."

The deepening drought led Governor Schwarzenegger to declare a state of emergency in Riverside County. Extreme measures for an extreme dry spell -- but still too late for the Bouris family.

"It's just in your blood to farm," said Bouris. "It's kind of sad, to see a family tradition end like that."

Government forecasters with the National Oceanic and Atmospheric Administration have announced they believe another La Nina is on the way. That weather phenomenon is a periodic cooling of surface temperatures in the Pacific that's expected to bring drier-than-normal conditions this fall to an already drought-stricken Southern California.

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
HON. OLIVER W. WANGER, JUDGE

NATURAL RESOURCES DEFENSE
COUNCIL, et al.,

Plaintiffs,

vs.

KIRK KEMPTHORNE, Secretary,
U.S. Department of the Interior,
et al.

Defendants.

No. 05-CV-1207-OWW

HEARING RE INTERIM REMEDIES
RULING

Fresno, California

Friday, August 31, 2007

REPORTER'S PARTIAL TRANSCRIPT OF PROCEEDINGS

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1 Friday, August 31, 2007

Fresno, California

2 5:14 p.m.

3 THE COURT: All right. I'm going to start by
4 reviewing the law that applies in this proceeding. And as I
5 have said, based on the recent amendment by way of supplement
6 to the complaint, we have action that is alleged to be
7 unlawful or omission by an agency of the United States, the
8 DWR. I'm sorry, the Bureau of Reclamation as well as the
9 Department of the Interior. That the way in which the Central
10 Valley Project is being operated is both presenting present
11 jeopardy to the survival and recovery of the species and that
12 it is also impairing the critical habitat of the species.

13 And the ESA prohibits agency action that is likely to
14 jeopardize a continued existence of any listed species, and in
15 this case, the Delta smelt is listed as a threatened species.
16 And the regulations, that's 16 United States Code, Section
17 1536(a)(2) referred to as Section 7 of the ESA, 7(a)(2)
18 violation.

19 And the regulations that are at 50 CFR, Section
20 402.02 provide that this law prohibits any agency action that
21 reasonably would be expected, directly or indirectly, to
22 reduce appreciably the likelihood of both the survival and
23 recovery of a listed species in the wild.

24 The word "jeopardize" or "jeopardy" as it is used in
25 the act means to engage in an action that reasonably would be

1 expected, directly or indirectly, to reduce appreciably the
2 likelihood of both the survival and recovery of a listed
3 species in the wild by reducing the reproduction numbers or
4 distribution of that species.

5 The complaint also sought and a summary judgment in
6 the case has been entered that essentially found the 2004/2005
7 biological opinion that covered the operation of the OCAP for
8 the, if you will, day-to-day running of these coordinated
9 projects and operations of the State Water Project and the
10 Central Valley Project. That finding was that the biological
11 opinion was unlawful, arbitrary and capricious for the reasons
12 that are stated and they don't need to be stated now because
13 that has already been decided.

14 The further finding was that the decision of, in
15 addition to the biological opinion, that the remedial action
16 measures that had been adopted as part of that decision and
17 belated actions and also a take limit that has been
18 established as required by the Endangered Species Act was also
19 invalid.

20 After those findings, the Court set, in consultation
21 with the parties, this evidentiary hearing, which has now
22 consumed eight full court days, to determine what remedies, if
23 any, should be imposed by the Court to address the unlawful
24 actions by the Department of the Interior and the Bureau of
25 Reclamation, the latter is the action agency.

1 The State Department of Water Resources, which is a
2 coordinated operator of the State Water Project, which is
3 operated in tandem and cooperatively with the federal project
4 and, as the parties all know, the federal project has state
5 permits for its water entitlements that are used to perform
6 its operations both of water service, that is performed under
7 contract to water districts, who in turn have members who
8 contract for water.

9 And we have constituencies here, not only San Luis
10 and Delta-Mendota Water Authority, Westlands Water District,
11 Del Puerto Water District, Glenn-Colusa Irrigation District.

12 We have the State Water Contractors, who include not
13 only contracting districts, but also municipal and industrial
14 agencies who provide water service that isn't for agricultural
15 purposes, it is for municipal purposes.

16 And additional to those parties are the Farm Bureau,
17 who we have just heard from.

18 In addressing the remedial approach to the case, the
19 plaintiffs have sought initially for the invalidation of the
20 biological opinion and a vacatur of the take standards and all
21 aspects of the biological opinion. Today in argument, they
22 offered that if -- and I interpret the offer as a conditional
23 offer, the condition being that if the Court were to pronounce
24 and apply the remedies that are in the revised recommended
25 interim protection actions for Delta smelt that Dr. Swanson

1 has authored, if all of those are adopted as a remedy in the
2 case pending the reconsultation, remand and, if you will, the
3 correction and/or repromulgation of a lawful biological
4 opinion, that that would be acceptable to the plaintiffs.

5 The federal defendants have, after taking the initial
6 position that there was no entitlement to relief because there
7 were no violations of law, they haven't waived those
8 positions, say that if there are remedies to be imposed, that
9 for all the reasons that have been stated by their witnesses,
10 primarily Cay Goude, that the five featured action matrix
11 should be pronounced by the Court to be a remedy that is to be
12 operative in the interim period between today and the time
13 that a lawful biological opinion is issued concerning the OCAP
14 for the Central Valley Project and the State Water Project.

15 The Department of Water Resources, as intervenor,
16 essentially for the reasons stated by Mr. Lee, agrees with the
17 proposed action matrix of the Fish & Wildlife Service and
18 would modify to make, if you will, less stringent the flow or
19 water consumption requirements.

20 The State Water Contractors, without waiving their
21 position that the original BiOp was lawful and that no
22 remedies are needed, have proposed an alternative three-tiered
23 remedial approach. And they do not agree with the Fish &
24 Wildlife Service, I'm just going to call it the federal
25 defendants' proposed remedy and/or the modification to that

1 remedy proposed by the Department of Water Resources.

2 The Delta-Mendota Water Authority and Westlands Water
3 District intervenors, one, do not believe the BiOp is
4 unlawful, have not waived that position. They, joined by the
5 Farm Bureau, take the essential position that the evidence in
6 this proceeding, through Dr. Miller's testimony, has
7 established that there are a number of causes for the decline
8 of the Delta smelt, including but not limited to toxicity,
9 predation, the disappearance or reduction of the food supply
10 caused in material part by the invasion of alien species,
11 primarily two types of clam that filter the planktonic
12 organisms that are the food supply to the smelt, among others.

13 They also believe that In-Delta actions by other
14 diverters, who are not under the direct control or operation
15 of either the state agencies and meteorological conditions,
16 such as storms, winds, temperature changes and the like, all
17 have effects on the movement, the existence, the location and
18 the health of the species.

19 And so the San Luis and Westlands defendants agree to
20 nothing and essentially do not support any remedy. They say
21 there should be no remedy because the projects have no causal
22 relation that is significant to any of the problems the smelt
23 is now encountering or has encountered.

24 The Farm Bureau takes the same position, but
25 arguendo, if a remedy is going to be imposed, support the

1 federal defendants' five point action matrix as modified by
2 the Department of Water Resource proposals.

3 This case is also brought under Title 5 United States
4 Code, Section 702, et seq. United States Administrative
5 Procedure Act and it addresses action by an agency of the
6 United States that is arbitrary, capricious or unlawful, which
7 requires the intervention of Court to make such a finding.

8 And Mr. Wall was very accurate in his recitation of
9 the law. It is not the function nor necessarily the
10 jurisdictional authority. It might be the prerogative, but in
11 the eyes of this Court, deference is required by law to an
12 agency that has the expertise, the competence and the legal
13 charge that is essentially invested by the elected
14 representatives of the people who make the laws and then
15 charge experts in the executive branch to carry out the
16 functions of the agency, here the operation of the projects.

17 And so a judge, who is neither a scientist, a
18 biologist, an administrator or elected by the people,
19 ordinarily is confined to determining the legality of actions
20 and, if necessary, and appropriate -- and here, I take it that
21 because of the alternative positions that are taken by the
22 governments, and I'm more concerned with that of the federal
23 defendants because by their consent and waiver of any Eleventh
24 Amendment immunity, the state is here, they have acquiesced to
25 the jurisdiction and authority of the Court, there by removing

1 the jurisdictional objection.

2 My understanding is that by the position that the
3 United States has taken, they are in effect impliedly, if not
4 expressly consenting to the imposition of a remedy,
5 particularly one without waiving their legal position as to
6 the propriety and legality of their actions as to the BiOp.

7 And also with respect to any finding on the issues of
8 remand, vacatur and the status of the take limits, as I
9 understand the government position, their preference is to
10 consent to a remedy rather than face a remand with vacatur
11 where there will be no effective biological opinion or take
12 limits.

13 And we have looked for some time now at the law and
14 we have asked the parties to provide the law, and no party has
15 provided the law that says that the 1995 biological opinion,
16 which has obviously been superseded by the government's
17 2004/2005 BiOp. The Court has no understanding that it would
18 have the authority to, if you will, resurrect what is a
19 superseded and obviously outdated, and, if the current one is
20 unlawful, it has to be more unlawful than the current BiOp,
21 recognizing that the take limits in the '95 BiOp were 55,227
22 up to 224,409 Delta smelt per year in a dry year.

23 The current incidental take limit was 70,500 and, as
24 the parties all know, nobody knows what the population of the
25 species is, but the '05 BiOp could approach it and the '95

1 take limit very well could exceed it.

2 We have uncontradicted testimony of some experts on
3 the plaintiff side, Dr. Swanson, Ms. Goude, Dr. Hanson, even
4 Dr. Miller told us that the species is in a critical state.
5 It could become extinct within a year and it could become
6 extinct if everything that anybody's asked for here was
7 implemented, it could still become extinct if we put all these
8 measures into effect.

9 It appears to the Court, based on the facts most of
10 which have been discussed by counsel, that the most
11 responsible and the most prudent decision is -- and there's no
12 question that the BiOp has to be remanded and consultation has
13 been reinitiated for repromulgation in lawful form. And so
14 that is one of the remedies that the Court is going to order.

15 The next issue is whether the BiOp is remanded with
16 or without vacatur. And that then presents the Court with the
17 question do we leave the status quo, because the temporary
18 restraining order in this case was not granted and the
19 voluntary pumping cessation, or reduction would be the better
20 description, ended in June.

21 Do we leave the status quo where the agency is left
22 to manage the projects without any intervention by the Court
23 or does the Court impose, with the express or implied consent
24 of the action agencies, remedies that will address the Section
25 7(a) issues of the jeopardy to the species, its survival and

1 recovery, and the impairment or alteration of its critical
2 habitat.

3 And in looking at this question, I asked the parties
4 to consult among themselves and to determine if there was a
5 result they could reach that we could all be proud of. And
6 that effort apparently has not been one that has come to
7 fruition.

8 And so it devolves to the Court to determine what the
9 result should be now with regard to the issue of vacatur or
10 non-vacatur. And in the final analysis, the Court is
11 persuaded by science, which it must be, because the law
12 requires that the best available science be brought to bear on
13 the issues that are presented.

14 As the Court noted and the plaintiffs in their brief
15 on remedies repeated, the law doesn't give the Court a choice.
16 If the Court sees that agency action or inaction not only
17 threatens, but doesn't have to bring it to extinction, but has
18 that potential, then the law requires intervention. There
19 must be action taken by the Court.

20 In this case, given the history, which I have alluded
21 to earlier, that the approach the agencies were taking and
22 here the Court believes that the evidence shows that the
23 Department of Water Resources of the state essentially
24 deferred to the Bureau of Reclamation and Department of the
25 Interior for it to implement the Delta Smelt Recovery Action

1 Plan and the Delta Smelt Working Group, Water Operations
2 Management Team and the agency heads have certainly addressed,
3 they have spent time on and they have endeavored to remediate
4 the present jeopardy which has been defined as critical.

5 And that was agreed to by the operator, Mr. Milligan,
6 as well as the scientists. And that effort, all those
7 efforts, have been unsuccessful because we see continuing
8 declines and every survey that comes in that we have been
9 furnished in the last two years so shows that the condition of
10 the species is worsening.

11 And so contrary to -- and I do think it is a
12 selective study that was done by Dr. Miller. I'm not
13 criticizing his competence, his ability or the application of
14 his science as an engineer or water engineer, or Dr. Manly's
15 competence or renown as an ecological statistician. But as
16 has been indicated, the correlative studies that were
17 undertaken by those experts certainly provide a major issue
18 about cause. But I think that the answer I got from Mr.
19 Buckley is telling. The law recognizes concurrent causes,
20 even though it's a doctrine that has its origins in the law of
21 torts.

22 But here the Court can't find that the sole cause is
23 the food supply and that the absence of a statistical
24 correlation in the studies that Dr. Miller performed explains
25 the jeopardy of the species when there is indisputable

1 evidence of entrainment, of salvage, the pumps grind these
2 fish up. That's caused by, in some cases, the natural
3 migration of the fishes, it's caused by flow conditions in the
4 central Delta at the confluence of the Sacramento and San
5 Joaquin Rivers, it's caused going east from there, going north
6 from there, going south from there, and those are to the south
7 and into the Clifton Court Forebay areas of hazard.

8 And the evidence is uncontradicted. There isn't any
9 question about it, that these project operations move the
10 fish. Of course we don't know how many. But the fact is it
11 happens. And the law says that something has to be done about
12 it by the action agency.

13 Now, the Court from that concludes that it is under a
14 legal duty to provide a remedy. And if it is in the form of
15 an injunction, there would be two standards, the traditional
16 injunctive relief standard and the ESA standard.

17 The traditional standard looks at the likelihood of
18 success on the merits, it balances hardships, it looks at the
19 public interest; and the ESA standard essentially evaluates
20 the threat of harm to the species and discounts hardships of
21 an economic or other nature, except for human health and
22 safety.

23 And the Court recognizes that, as I said earlier
24 today, that that isn't just emergency water supplies for
25 schools, for hospitals, for fire departments. That can

1 include the absence of water if the supplies to contractors
2 are zero and land is fallowed, subsidence from groundwater
3 pumping which contributes to the fallowing or the absence of
4 water creates air pollution conditions. Those are threats to
5 human health and the environment, just as the absence of
6 emergency water service is.

7 How this is going to be accomplished is something
8 that the Court cannot prescribe. Because the law doesn't
9 permit it. I'm not going to tell the Bureau of Reclamation
10 how to run its agency, how its scientists should think, what
11 conclusions they should reach, what recommendations they
12 should make or how they should be implemented. But I do have
13 proposals that the parties are offering, and I'm going to use
14 those proposals they are offering to do the best in what the
15 Court views as an impossible situation.

16 In one of these water cases that have been going on
17 for over 30 years in the Eastern District of California
18 involving water supplies to the Central San Joaquin Valley and
19 the Sacramento and central Delta areas, and most of the
20 agencies that are involved in this litigation, Judge Trottin,
21 in one of the decisions said -- this was in the drainage
22 case -- that sometimes problems are so intractable, they're so
23 difficult that they're beyond the competence of the judiciary,
24 they are matters that need to be left to the legislative
25 branch for the legislature to address.

1 Well, it would be very nice if I could do that. But
2 I can't. Because the law requires otherwise. And I am going
3 to formulate an order and I am going to need the assistance of
4 the parties with this -- to not vacate the 2005 biological
5 opinion, but I am going to put into effect a preliminary
6 injunction.

7 And I recognize the difference between a mandatory
8 injunction and the law's preference for a prohibitory
9 injunction. And therefore I'm going it to phrase my
10 injunctive relief in prohibitory terms. I'm not playing a
11 game here in trying to exalt form over substance, but rather
12 I'm trying to comply with the law.

13 And the Court is going to order that Bureau of
14 Reclamation and the State Department of Water Resources take
15 no actions that are inconsistent with or that violate the
16 following remedial prescriptives.

17 First, there will be year round monitoring actions
18 that fully implement all current surveys that are being
19 conducted for the Delta smelt, which will include but not be
20 limited to the Spring Kodiak survey, the 20 millimeter survey,
21 the summer townet survey and the fall MWT.

22 There was a proposal in what is the second remedial
23 action which would increase the frequency of sampling for
24 entrained fish at the CVP protective facilities to a minimum
25 of 25 percent of the time, which is a minimum of a 15-minute

1 count per hour.

2 I'm going to also include within that, the measure
3 that was proposed by Dr. Swanson that steps be taken to
4 evaluate presence and condition of larval or juvenile Delta
5 smelt that are in the sub-20 millimeter size range,
6 recognizing that there are difficulties in doing that. But as
7 the Court understood it, it's entirely feasible based upon the
8 type of seine or net the interval that would be within the
9 physical test device itself.

10 I do recognize that at least two of the experts said
11 that any sampling could be further jeopardizing to the
12 species. But it appears that all parties, with the exception
13 of the San Luis and Delta-Mendota parties, agree that sampling
14 needs to continue and that it is feasible.

15 The trigger for this that was proposed by the Fish &
16 Wildlife Service was an increase in Delta outflow where the
17 Sacramento River flow at Freeport reached 25,000 cfs or in the
18 San Joaquin River more than 10 percent over a three-day
19 average. And in the fall midwater trawl and/or Kodiak survey
20 data on Delta smelt, where fish are moving upstream of the
21 confluence and into the Delta or by January 15th of the water
22 year, whichever comes first.

23 The next remedial action that will be implemented
24 is -- and I think that I have already in effect adopted action
25 number three of the Fish & Wildlife Service, which was to

1 implement a monitoring program for the protection of larval
2 Delta smelt with the trigger that is prescribed. I don't see
3 any reason to modify or to, if you will, change that. And I
4 should correct myself. I'm actually using, at this point, the
5 plaintiffs' remedial actions.

6 As to the remedial action number three that is
7 submitted by the Fish & Wildlife Service as proposed to be
8 modified by the DWR, the parties can correct me if I'm wrong,
9 but an area of -- and Dr. Hanson spent a lot of time on this.
10 For determining the upstream Old and Middle River flows,
11 rather than adopting a zero cfs as the lower range of that, I
12 remember a lot of discussion about a negative 750 to a
13 negative 2250 range. I recognize that this was not
14 necessarily addressing only larval and juvenile smelt, but the
15 Court is going to adopt the low end of that low range
16 at -- for the third proposed action by the Fish & Wildlife
17 Service at negative 750 to a negative 5,000 cubic feet per
18 second. And the Court thinks that 6,000 is an acknowledged
19 and undisputed area of jeopardy and recognizing that it's
20 easier to -- less consumptive to achieve, the Court is
21 concerned by what it believes are the legitimate reasons given
22 by Dr. Swanson. And in the interest of time, I'm going to let
23 the parties submit findings, which will document the reasons
24 for these choices of remedies.

25 Now, the fifth action is the same as the plaintiffs'

1 actions, which were, if I have them correctly, and the parties
2 can help me here, was it six and seven where we have the head
3 gates at the --

4 MR. ORR: Eight and nine, Your Honor.

5 MR. WALL: Plaintiffs' eight and nine.

6 THE COURT: Eight and nine. All right. Eight and
7 nine are the same, I think, all the parties have acknowledged
8 as Fish & Wildlife Service measure number five. So that would
9 be the next remedial.

10 If you want to do them as two, because I'm going to
11 ask for the parties to prepare an order that is faithful to
12 the decision that I am now announcing. So those remedies are
13 going to be also prescribed.

14 Now, in turning to the plaintiffs' action number four
15 and the triggers, the Court has determined that -- let me have
16 one -- Mr. Maysonett, if you would repeat, please, the
17 objection to plaintiffs' four so I have the basis for it. Or
18 Mr. Lee, either one of you can do that. Mr. Lee was most
19 specific about it. Do you want to address that right now, Mr.
20 Lee?

21 MR. LEE: Number four, as I understand it, is
22 designed to protect pre-spawning adults. I'm talking about
23 revised number four set forth in plaintiffs' proposal
24 contained in the August 13th, 2007.

25 THE COURT: That is correct.

1 MR. LEE: And that proposal would start out -- is
2 multi-part, as I understand it. They would have a zero cfs
3 requirement for a minimum ten days and then -- and then
4 following that, there would be a requirement that would have
5 Old and Middle River flows between 2750 and 4250 cfs.

6 We had objected to the zero flow because we did not
7 believe there was any science in the record to support it.
8 The zero flow, as I understand this requirement, is roughly of
9 the same nature as in action number one in US Fish & Wildlife
10 Service measure. And that had a negative 2,000 cfs, which we
11 believed science fully supported.

12 So we would have recommended that the Court adopt
13 action number one for that time period for -- under the US
14 Fish & Wildlife proposal.

15 As to the follow-on proposals, we submitted that,
16 first of all, the five-day running average was inappropriate,
17 it should be a 14-day running average or seven-day running
18 average subject to some bans and constraints.

19 But most importantly, we were of the view that the
20 range of flows was too narrow, that the flows should be,
21 according to our view, not in excess of -- sorry, make sure I
22 got right -- negative 5500 for a 14-day running average or
23 negative 6,000 for a seven-day running average. As you can
24 see, as the running average days get shorter, the band gets
25 larger. As the running average days get longer, the band, the

1 level of authorized exports, gets lower. So that was our
2 proposal for the protection of pre-spawning adults.

3 And our objection to action number four is we did not
4 believe it was supported by the regression analysis submitted
5 to the Court which we discussed in closing argument. Is that
6 clear?

7 THE COURT: That is clear. But you did have a
8 proposal that covered in part this time period?

9 MR. LEE: Yes, we did, Your Honor. The two -- the
10 two-part proposal, one would be action one in the US Fish &
11 Wildlife Service proposal. The other would be a modification
12 of action two of the US Fish & Wildlife proposal. And that
13 modification would read -- and I would just look at action two
14 and put in the State's modifications -- the daily net upstream
15 Old and Middle River flow not to exceed 5500 cfs. The low
16 will be a 14-day running average simultaneously, the seven-day
17 running average will not exceed 6,000 cfs. That would be the
18 proposal for this life stage of the smelt, which is the
19 pre-spawning adult smelt.

20 THE COURT: And the State Water Contractors have
21 proposed that this start December 1st. I'm going to leave it
22 at December 25th. I'm going to essentially reduce those flows
23 from 6,000 on the seven-day running average to 5,000 cubic
24 feet per second. And there was objection to the 14-day
25 running average -- well, you had proposed a 14-day running

1 average. Leave it at the seven-day running average and don't
2 do a 14-day running average.

3 MR. LEE: So, in effect, Your Honor, you're adopting
4 one-half of action two of the US Fish & Wildlife proposal?
5 They have a 4500 cfs average for a 14-day running average and
6 a 5,000 cfs for a 7-day running average. Are we abandoning
7 the 4500 cfs.

8 THE COURT: What does it add?

9 MR. LEE: I'm sorry?

10 THE COURT: What does it add?

11 MR. LEE: I would probably defer to the US
12 biologists. They are --

13 THE COURT: Do you know, Mr. Maysonett?

14 MR. MAYSONETT: Your Honor, my understanding is that
15 the targets of 4500, negative 4500 negative flow in the Old
16 and Middle River is 14-day average and that by -- the 14-day
17 average, of course, allows certain ebbs and flows of the tides
18 and the other influences that is hard for the projects to
19 operate to eliminate entirely.

20 The seven-day average at negative 5,000 would help to
21 limit the highs and lows a bit. So my understanding is that
22 the two work in tandem to ensure that flow levels remain in
23 certain -- within a certain range.

24 THE COURT: All right. Well, I'm going to order the
25 prescription that I've just described. And if we have to

1 adjust the language, we will.

2 As to action measure number ten. The Court is not
3 persuaded that the evidence preponderates here to support this
4 action. It was very well explained by Dr. Swanson. The
5 justifications were very articulately presented. It does not
6 appear to me that there is support necessarily in peer
7 reviewed or analysis by others who are studying this issue.

8 The Court certainly recognizes that water quality and
9 the improvement of habitat has the potential to increase
10 benefit to the species. But I am very impressed by the fact
11 that the Delta Smelt Working Group, one or two of whom
12 essentially were presented with this proposal in a different
13 form, in a different context, but didn't support it.

14 And because of the material uncertainty that is
15 described by reviewing scientists about the benefit at a very,
16 very large commitment and a -- resource commitment, the Court
17 does not believe that the evidence preponderates to justify
18 this measure and therefore it will not be included in the
19 remedies.

20 And so if I have it, then, we have those that I've
21 just gone over. And I'll now invite the parties to -- action
22 nine is the same as, I believe, five of the Government's Fish
23 & Wildlife Services, that is to prohibit installation at the
24 head of Old River barrier in connection with the triggers and
25 the end of the actions. Those are agreed on. And the other

1 management of the gates, which was, I'm going to
2 indicate -- well, I don't see it.

3 I don't see, Mr. Orr, number six, that's implementing
4 the Vernalis Adaptive Management Plan river flow and
5 enhancement, I am going to order that as a prescriptive
6 remedy.

7 And so I believe I have addressed the remedies that I
8 intend be prescribed as part of the injunctive relief. If
9 anybody wants to address anything now that you believe has
10 either been overlooked or not addressed, now is the time to do
11 it.

12 MR. WALL: Your Honor, I have a couple of clarifying
13 questions.

14 THE COURT: Yes.

15 MR. WALL: If I might. The first half of plaintiffs'
16 four parallels the Fish & Wildlife Service one and I didn't
17 hear if the Court was doing anything with that.

18 THE COURT: I'm adopting it.

19 MR. WALL: Fish & Wildlife Service one?

20 THE COURT: Yes.

21 MR. WALL: Okay. And the -- you were also adopting
22 the plaintiffs' eight and nine, which are the same as
23 plaintiffs' Fish & Wildlife Service five?

24 THE COURT: Yes. And six, that were agreed to by all
25 the parties except Mr. O'Hanlon's clients.

1 MR. LEE: Your Honor, just for the clarity of the
2 record, we did not agree to action six. The reason why
3 we -- oh, let's see. The reason why we did not agree to it is
4 because action six is basically the implementation of the
5 Vernalis Adaptive Management Plan. And that is mandated
6 already on the projects by water right decisions. We had
7 noted in our, I believe it was cross examination, that this
8 was unnecessary.

9 THE COURT: Well, it might be redundant, but out of
10 an abundance of caution, we have it. Let's include it in the
11 order.

12 MR. WALL: Your Honor, if I could, one other
13 clarifying matter. The Fish & Wildlife Service had action
14 four, which is post VAMP, and we had an action seven, which is
15 post VAMP. Did the Court intend anything for the post VAMP
16 period?

17 THE COURT: I thought that there was a -- let me have
18 what the Fish & Wildlife Service's proposal was on post VAMP.
19 It is number --

20 MR. WALL: Number -- Fish & Wildlife Service action
21 four.

22 THE COURT: Four. I had ordered that. And I had
23 not -- I modified it to take the low flow from zero to minus
24 750. Negative 750.

25 MR. LEE: Your Honor, it is my understanding that

1 action four, in its original format with the US Fish &
2 Wildlife Service, was intended to have flows similar to those
3 in action three. And we've mentioned that in, I believe,
4 footnote 1, was that not the case? Of attachment B. If the
5 Court's view is that action four should simulate action three,
6 then --

7 THE COURT: The flow levels would be the same.

8 MR. LEE: The flow levels would be the same. Is that
9 your desire?

10 THE COURT: That is what I was attempting to
11 describe.

12 MR. WALL: So action three would be extended to last
13 until the end of -- the end date for action four? Basically
14 action three would continue on?

15 THE COURT: That is correct.

16 MR. WILKINSON: And Your Honor, those flows again
17 were a range of negative 750 to negative 5,000; is that
18 correct?

19 THE COURT: That is correct.

20 MR. LEE: Your Honor, mixing the two charts a little
21 bit sometimes leaves me a little lost. We have certain end of
22 action timings that are in the US Fish & Wildlife Service
23 proposal, and they are clearly not identical to those that are
24 in --

25 THE COURT: That is correct. And what I'm going to

1 suggest that you do is that you now reduce to writing the
2 orders that I have pronounced. The court reporter will
3 provide you the transcript. I'd prefer for there to be a
4 joint submission, but if you can't agree on it, then you can
5 submit competing proposed orders. And I'll resolve any
6 differences.

7 MR. LEE: All right.

8 THE COURT: All right? I intend for this injunctive
9 relief to be binding upon the United States Department of the
10 Interior, its Bureau of Reclamation, the State Department of
11 Water Resources, their agents, officers and employees and
12 those acting for, under and in concert with them and anybody
13 in those agencies who has actual notice of this order.

14 The order is to remain in effect pending entry of
15 final judgment in this case or further order of the Court.

16 Is there anything further?

17 MR. LEE: Your Honor, I think we'd like to look at
18 the transcripts and work on them.

19 THE COURT: You may. And the one other thing I'm
20 going to do is I'm going to ask for the parties to submit
21 proposed findings of fact and conclusions of law that support
22 this judgment that I have pronounced.

23 MR. LEE: What time frame, sir, are you talking
24 about?

25 THE COURT: It would be my preference that they

1 obviously be joint. You give me a reasonable time frame. I
2 think that there is concern that the order go into place. But
3 because we will not be starting any of the remedies September
4 1st, we don't have that level of urgency.

5 MR. LEE: Okay.

6 THE COURT: So what is reasonable?

7 MR. LEE: May we consult just for a moment on the
8 timing?

9 (Discussion among counsel, not reported.)

10 MR. LEE: Your Honor, I've had a chance to consult
11 with the United States, with San Luis and Delta-Mendota, with
12 the Farm Bureau and State Water Contractors, and given our
13 delayed vacations, Your Honor, we would like 60 days to get
14 the order -- get the findings of fact and conclusions of law
15 and the orders to you. That should give us time to consult
16 and see whether we can do something joint. If we can't, to
17 prepare alternate orders and findings of facts.

18 THE COURT: What's the plaintiffs' timetable?

19 MS. POOLE: Your Honor, we would propose something
20 much shorter than that. We were thinking more in the order of
21 two weeks.

22 THE COURT: Well, the court reporter is going to need
23 time to produce the transcript. And so she can give us her
24 transcript estimate now, as to what time.

25 THE REPORTER: I'd need 30 days.

1 THE COURT: She needs 30 days to produce the
2 transcript.

3 MS. POOLE: And Your Honor's order regarding the
4 rough transcripts, you'd like us to rely on the finals.

5 THE COURT: I will if -- I think we should have a
6 final official transcript for the preparation of the judgment.
7 At least the remedial aspect of the judgment that has been
8 announced today. And so, yes, let's do that. And my estimate
9 is that you at least need 20 days after you have the
10 transcripts in hand. And so that would be 50 days.

11 For findings and fact and conclusions of law, there's
12 going to have to be an official transcript. So let's make the
13 period 50 days. When is that? October 22nd, 2007.

14 Is there anything further?

15 MR. LEE: That's fine with the date, Your Honor.

16 MS. POOLE: We very much appreciate --

17 MR. WILKINSON: Thank you, Your Honor.

18 MS. POOLE: -- the time and effort you've devoted to
19 this, Your Honor.

20 THE COURT: Thank you very much. Thank the Court
21 staff, please, they're the ones who have had to stay way, way
22 past their hours of operation.

23 MR. LEE: Thank you.

24 THE COURT: Everybody have a good weekend. We will
25 stand in recess.

1 MR. MAYSONETT: Thank you, Your Honor.

2 MR. WALL: Thank you, Your Honor.

3 MR. O'HANLON: Thank you, Your Honor.

4 MR. BUCKLEY: Thank you, Your Honor.

5 (Off the record.)

6 THE COURT: I'd should add that the Department of
7 Water of Resources, the Bureau of Reclamation and the
8 Department of the Interior shall be reserved the right on
9 reasonable notice to deviate from the prescriptive remedies,
10 if necessary to protect public health, safety and the human
11 environment.

12 (The proceedings were concluded at 6:11 p.m.)

13

14 I, KAREN L. LOPEZ, Official Reporter, do hereby
15 certify that the foregoing transcript as true and correct.

16

17 DATED: _____ KAREN L. LOPEZ

18

19

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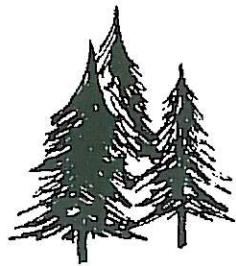
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*Palomar Mountain
Planning Organization*

P.O. Box 145
Palomar Mountain, CA 92060-0145



September, 7, 2007

Michael Baksh.
Tierra Environmental Services
9915 Business Park Ave, Suite C
San Diego, CA 92131

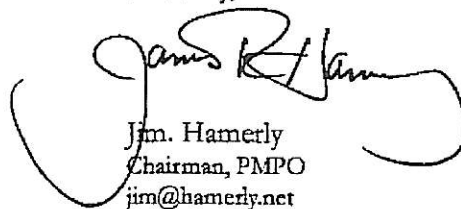
Mr. Baksh:

I represent the community residents of Palomar Mountain and am writing to comment on the planned expansion of the Pauma Valley Casino. I attended the recent August 28th public comment meeting, purchased and read the several hundred pages of the Draft EA TEIR. Whereas many of the proposed changes cause community concern, I believe the greatest impact to the residents of Palomar Mountain is traffic.

I similarly attended public meetings and read the full March 2007 SR-76 East Corridor Study prepared by the Reservation Transportation Authority. In that recently completed report, sanctioned by the Pauma and 18 member tribes, the traffic levels on SR-76 in the vicinity of the proposed plan are *currently rated* as an unacceptable "D" level on weekdays and "F" level on Saturdays. By 2035, the average daily traffic volumes are expected to roughly double or triple with no road expansions planned.

The mitigation proposals in your plan, while improving access immediately surrounding the Casino, do not accommodate the current "D" and "F" levels of traffic, not to mention the expected increases due to the expansion. Additionally and anecdotally, the number of traffic accidents and resulting deaths on SR-76 are a matter of grave concern, and the mitigation proposals do not improve the situation.

Sincerely,



Jim. Hamerly
Chairman, PMPO
jim@hamerly.net

ENDANGERED HABITATS LEAGUE

DEDICATED TO ECOSYSTEM PROTECTION AND SUSTAINABLE LAND USE



BY FAX AND ELECTRONIC MAIL

September 21, 2007

Michael G. Baksh, Ph.D.
Tierra Environmental Services
9915 Business Park Ave. Suite C
San Diego, CA 92131

Re: Comments on the Draft Environmental Assessment and Tribal Environmental
Impact Report of the Pauma Casino and Hotel

Dear Mr. Baksh:

On behalf of itself and its many members who reside in San Diego County, the Endangered Habitats League (EHL) respectfully submits the following comments on the above Draft Environmental Assessment and Tribal Environmental Impact Report for the Pauma Casino and Hotel (Casino EA/TEIR). EHL is a nonprofit organization dedicated to the conservation of Southern California's unique native ecosystems and to sustainable land use planning in the region.

As we explain below, the Pauma Tribal Council may not approve the study consistent with the provisions of section 10.8 of the Tribal-State Gaming Compact requiring the accurate disclosure and mitigation of off-reservation impacts. Nor can the National Indian Gaming Commission approve the management agreement associated with the project because the study as drafted—and the project as proposed—does not comply with the National Environmental Policy Act's mandate to disclose all project impacts—whether off- or on-reservation—and to make a reasoned determination of their significance. (See National Environmental Policy Act, 42 U.S.C. § 4321 *et seq.*)

EHL therefore submits that the Casino EA/TEIR and associated project approvals cannot proceed until the project and environmental study are revised to comply with the mandates of federal law and the Tribal-State Compact. In doing so, EHL intends to rely on in any subsequent judicial action, and incorporates herein, the comments on the Casino EA/TEIR submitted by the County of San Diego, dated September 21, 2007, the comments submitted by the residents and visitors of Pauma Valley dated September 18, 2007, and all other comments submitted in opposition to the Casino EA/TEIR's adoption.

Legal Mandates

A. NEPA

147 The National Environmental Policy Act ("NEPA") is implicated when an agency proposes "a major Federal action[] significantly affecting the quality of the human environment." (42 U.S.C. § 4332(2)(c).) NEPA requires an agency contemplating a major federal action to take a "hard look" at alternatives and environmental consequences before undertaking the action. (See *Baltimore Gas & Elec. Co. v. Natural Resources Defense Council, Inc.*, 462 U.S. 87, 97 (1983). To this end, the agency ordinarily must prepare an Environmental Impact Statement ("EIS") that includes, among other things, a rigorous, objective evaluation of all reasonable alternatives to the proposed action--including the alternative of no action--and, for alternatives which were eliminated from detailed study, a brief discussion of why they were eliminated. (See 40 C.F.R. § 1502.14.)

The EIS must also include a discussion of the direct and indirect environmental effects of the proposed action and its alternatives. (40 C.F.R. § 1502.16.) Direct effects are effects caused by the action that occur at the same time and place. (40 C.F.R. § 1508.8.) Indirect effects are effects "which were caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable." 40 C.F.R. § 1508.8. Indirect effects "include growth-inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems." (40 C.F.R. § 1508.8.) Agencies must address a proposed action's indirect effects in an EIS if they are reasonably foreseeable, sufficiently definite, and significant. (*Dubois v. U.S. Dep't of Agric.*, 102 F.3d 1273, 1286 (1st Cir. 1996) (quoting *Sierra Club v. Marsh*, 976 F.2d 763, 878 (1st Cir. 1992)).

B. Tribal-State Compact.

148 Under the Compact between the Pauma Band and the State of California as amended June 21, 2004, "the Tribe agrees to make a fair revenue contribution to the State, to enter into arrangements to mitigate to the extent practicable the off-reservation environmental and direct fiscal impacts on local communities and local governments."

In addition, Section 10.8 of the Compact requires "a tribal environmental impact report . . . analyzing the potentially significant off-reservation environmental impacts" under the process specified in the agreement. The TEIR shall

"provide detailed information about the Significant Effect(s) on the Off-Reservation Environment which the Project is likely to have, including each of the matters set forth in

Exhibit A, shall list ways in which the Significant Effects on the Environment might be minimized, and shall include a detailed statement setting forth all of the following:

- (i) All Significant Effects on the Environment of the proposed Project;
- (ii) In a separate Section:
 - (A) Any Significant Effect on the Environment that cannot be avoided if the Project is implemented;
 - (B) Any Significant Effect on the Environment that would be irreversible if the Project is implemented;
- (iii) Mitigation measures proposed to minimize Significant Effects on the Environment, including, but not limited to, measures to reduce the wasteful, inefficient, and unnecessary consumption of energy;
- (iv) Alternatives to the Project; provided that the Tribe need not address alternatives that would cause it to forgo its right to engage in the Gaming Activities authorized by this Compact on its Indian lands;
- (v) Whether any proposed mitigation would be feasible;
- (vi) Any direct growth-inducing impacts of the Project; and
- (vii) Whether the proposed mitigation would be effective to substantially reduce the potential Significant Effects on the Environment."

Moreover, the Compact provides that:

"The discussion of mitigation measures shall describe feasible measures which could minimize significant adverse effects, and shall distinguish between the measures that are proposed by the Tribe and other measures proposed by others. Where several measures are available to mitigate an effect, each should be discussed and the basis for selecting a particular measure should be identified. Formulation of mitigation measures should not be deferred until some future time."

As to alternatives, the Compact requires that

The TEIR shall also describe a range of reasonable alternatives to the Project or to the location of the Project, which would feasibly attain most of the basic objectives of the Project and which would avoid or substantially lessen any of the Significant Effects on the Environment, and evaluate the comparative merits of the alternatives; provided that the Tribe need not address alternatives that would cause it to forgo its right to engage in the Gaming Activities authorized by this Compact on its Indian lands."

Finally, the Compact requires that a process be undertaken to mitigate the significant environmental impacts of a project *before* completion of the final TEIR:

148
(cont.)

"Section 10.8.8. Intergovernmental Agreement. Before the commencement of a Project, and no later than the issuance of the Final TEIR to the County, the Tribe shall offer to commence negotiations with the County, and upon the County's acceptance of the Tribe's offer, shall negotiate with the County and shall enter into an enforceable written agreement with the County with respect to the matters set forth below:

(1) Provisions providing for the timely mitigation of any Significant Effect on the Off-Reservation Environment (which effects may include, but are not limited to, aesthetics, agricultural resources, air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, water resources, land use, mineral resources, traffic, noise, utilities and service systems, and cumulative effects), where such effect is attributable, in whole or in part, to the Project unless the parties agree that the particular mitigation is infeasible, taking into account economic, environmental, social, technological, or other considerations."

The Proposed Project

149

The Tribe proposes to construct, and the NIGC proposes to approve, a massive gambling and hotel facility, with 2,500 slots and 384 rooms in the middle of bucolic Pauma Valley. The 23-story Las Vegas style hotel structure would tower over the valley floor and be visible for many miles in all directions. Exclusive access to this massive development—which would generate 5,200 daily trips according to a 2007 Caltrans/Reservation Transportation Authority study—would be via SR-76, an already busy two-lane rural highway.

Despite the huge size of the project, despite its gross incompatibility with its bucolic, agricultural and wilderness surroundings, and despite the patent lack of transportation and other infrastructure necessary to support a development of this magnitude, the Casino EA/TEIR arbitrarily and without substantial evidence asserts that "all impacts" from the project will be "less than significant."

Significant Impacts On Traffic Are Not Accurately Disclosed

150

The Casino EA/TEIR concedes that significant impacts on traffic from the project will result both directly and cumulatively. The document claims, however, that purported mitigation will reduce these impacts to an insignificant level. But the NIGC cannot adopt this approach unless it can show that the mitigation will actually be effective and will be implemented.

NEPA requires that the effectiveness of mitigation measures be described and analyzed

150
(cont.)

in detail in order to justify reliance on mitigation for reducing environmental impacts. NEPA requires that the agency discuss mitigation measures in an EIS. (40 C.F.R. §§ 1502.14, 1502.16.) Also, under NEPA, a Finding of No Significant Impact ("FONSI") is lawful only if the mitigation measures relied upon are discussed "in sufficient detail to ensure that environmental consequences have been fairly evaluated..." Communitics, Inc. v. Busey, 956 F.2d 619, 626 (6th Cir. 1992).

In other words, simply identifying mitigation measures, without analyzing the effectiveness of the measures, violates NEPA. Agencies must "analyze the mitigation measures in detail [and] explain how effective the measures would be . . . A mere listing of mitigation measures is insufficient to qualify as the reasoned discussion required by NEPA." Northwest Indian Cemetery Protective Association v. Peterson, 764 F.2d 581, 588 (9th Cir. 1985), rev'd on other grounds 485 U.S. 439 (1988). NEPA also directs that the "possibility of mitigation" should not be relied upon as a means to avoid further environmental analysis. Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations; Davis v. Mineta, 302 F.3d 1104, 1125 (10th Cir. 2002).

As an initial matter, as the County and other commenters explained, the Casino EA/TEIR's projections both of projected background traffic on SR-76 in future years and that resulting from the project are woeful underestimates. We will not repeat these comments here. We note, however, that projected traffic counts are inexplicably inconsistent even with those calculated by the Tribe's transportation authority in the Reservation Transportation Authority's SR 76 Corridor Study released in March 2007.

151

But even under the low-ball numbers employed in the Casino EA/TEIR, the draft violates core NEPA principles governing reliance on mitigation to support a Finding of No Significant Impact. The Casino EA/TEIR provides a "mere listing" of mitigation for traffic without any discussion of their effectiveness, or the likelihood of their implementation.

For example, to account for the serious Level of Service deficiencies on SR 76 that will occur if the thousands of daily additional trips are added to what is already a highly traveled two-lane highway, the document states in Mitigation Measure T-3 that "It is recommended" that "the Proposed Project pay a fair share to address the numerous deficient segments of SR 76. (Casino EA/TEIR at p 134.) The massive capacity enhancements that would be required to address the Pauma casino's percentage of projected additional travel—up to 25% of total ADT—will likely require 4 lanes and will cost hundreds of millions of dollars. The Pauma Tribe provides no evidence that it is willing to pay or has the capacity to pay the many millions constituting its "fair share" for the required improvements. Measures such as T-3 that are merely possible, and even then are not demonstrably adequate to reduce traffic impacts to a level of insignificance, cannot be relied on to reduce impacts to a level of insignificance consistent with NEPA.

151
(cont.)

This defect also violates the Pauma Tribal-State Compact's provisions requiring that a TEIR analyze "whether any proposed mitigation would be feasible" and "whether the proposed mitigation would be effective to substantially reduce the potential Significant Effects on the Environment." There is no discussion whether the Pauma has the capacity to undertake the expense of assuming its fair share of widening SR-76, or whether any widening it could afford or would be willing to pay its fair share for would be effective in mitigating traffic impacts. Unless this information appears in the Casino EA/TEIR, it cannot be approved consistent with the Compact.

Significant Impacts On Aesthetics And Visual Resources Are Not Disclosed

152

The Casino EA/TEIR makes the incredible and absurd conclusion that visual and aesthetic impacts from a 23-story night-lit Las Vegas style hotel and casino complex in the middle of an unspoiled bucolic agricultural valley will have no significant impact. This conclusion is arbitrary and capricious on its face and an insult to the intelligence of the average reader. The simulation at Figure 17 of the document says it all. Regardless of whether one thinks that Las Vegas style high-rises are aesthetically pleasing, no reasonable person can deny that the presence of such a building in such a setting fundamentally changes the visual landscape in a profoundly significant way. The Casino EA/TEIR's contrary arbitrary and unsupported conclusion to the contrary cannot stand consistent with NEPA and the Compact's disclosure requirements. And because the significance of the impacts are not disclosed, the mitigation measures proposed are also inadequate.

Significant Impacts On Groundwater Resources Are Not Disclosed.

153

Although the Casino EA/TEIR concludes that there will be no significant impacts on groundwater resources because the project will use the water that is currently used for the approximately 30 acres orchards that would be destroyed for the project, the drilling of three additional wells is part of the proposed project. (See pg. 103.) This apparent conflict is reconciled, the document contends, because additional reclaimed water will supply the orchards, while the new wells will supply the potable source for the project.

But if there is no new demand for groundwater, then why the need for the new wells? Existing wells should provide the potable water for the larger project, while the larger amount reclaimed effluent would supply the remaining orchards. Were the Casino EA/TEIR's conclusion correct, then no new wells would be necessary.

The simple fact is that, if new wells are going to be drilled, the potential exists for substantial additional pressure on scarce groundwater resources off of the reservation. This impact must be addressed in a rational and accurate way in a revised document.

Significant Growth-Inducing Impacts Are Not Disclosed.

The Casino EA/TEIR concludes without basis that the project will not directly or indirectly induce growth in the Pauma Valley. This conclusion is contrary to all the evidence.

First, the document's conclusion that no impacts need be recognized because the County has land use jurisdiction of surrounding lands ignores the practical realities of urban-type job-rich development in the midst of a rural economy such as Pauma Valley. Development such as the project will induce more residential development attracted to nearby jobs, placing added pressure on land values on nearby farms.

Second, as the Casino EA/TEIR itself recognizes, the project may result in the significant expansion of SR-76. This expansion, in turn, will facilitate other proposed developments in area that are constrained by transportation infrastructure. The growth inducing impacts of highways is well and has been recognized in the NEPA context in recent judicial decisions. (See, e.g. *Conservation Law Foundation v. FHWA*, (D. N.H. August 30, 2007) Memorandum and Order Case No.06-cv-45-PB [invalidating highway approval for failure to account for growth inducing impacts].)

Indeed, developers in surrounding areas have acknowledged the importance of the Pauma Casino expansion and related highway improvements to their growth plans. The developer of Warner Ranch, for example, which would add approximately 900 units just west of the Pauma reservation, stated that the development would not go forward without the Casino project. According to an August 6, 2006, North County Times article, a consultant to the Warner Ranch developer, Ali Shapouri, said that "the growth of the casinos persuaded him that a large development would make sense in an area that is mostly agricultural. "Without them, you wouldn't see a proposal like ours come forward," he said." (See link http://www.nctimes.com/articles/2006/08/06/news/top_stories/22_44_068_5_06.txt.)

The Casino EA/TEIR must account for these significant growth inducing impacts.

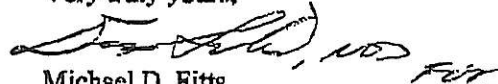
Conclusion

For all the above reasons, the project as proposed, and the Casino EA/TEIR as drafted, cannot proceed to approval consistent with NEPA and the Tribal-State Compact.

Thank you for your attention to EHL's views.

EHL Comments on Pauma Casino Expansion
Tierra Environmental Services
September 21, 2007
Page 8

Very truly yours,

A handwritten signature in dark ink, appearing to read "Michael D. Fitts", with a stylized flourish at the end.

Michael D. Fitts
Staff Attorney

Robert G. Helm
Post Office Box 784
San Marcos, CA 92079
(760) 744-1689
Fax: (760) 736-4818
Street Address:
1228 Calle Maria
San Marcos, CA 92069
August 10, 2007

Michael Baksh
9915 Businesspark Ave.
San Diego, CA 92131

Dear Sir:

156 [I am writing regarding the application of the Pauma Indians to build a new multistory structure at their present casino location in Pauma Valley. I am very much concerned with the certain light pollution that such a development will clearly produce. I am a member of the San Diego Astronomy Association and my active hobby is astronomy. I am informed that the Palomar Observatory is also concerned about this proposed development, and the adverse impact such development will have upon this famous public treasure.

I urge all public agencies to deny the casino application.

Very truly yours,



Robert G. Helm

RGH

Robert K. Buchheim
18 Altimira
Coto de Caza, CA 92679

August 12, 2007

Dr. Michael Baksh
Tierra Environmental Service
9915 Businesspark Avenue, Suite C
San Diego, CA 92131

Subject: Proposed Expansion of Pauma Casino and Hotel Project

Reference 1: Notice of Preparation, dated January 17, 2006

Reference 2: Draft Environmental Assessment and Tribal Environmental Impact Report

Dear Dr. Baksh:

I am an amateur astronomer, and a Trustee of the Orange County Astronomers. I am concerned about the light-pollution implications of the subject project. The following aspects are of concern:

¶4.1c acknowledges that the project will include "substantially more sources of exterior light than exist today", and offers as Mitigation Measure A-1 that the project intends to comply with the San Diego Dark Skies Ordinance, and intends to use only fully-shielded lighting to prevent any "direct upward illumination".

This mitigation measure will be strengthened if three additional measures are taken:

- Confirm, as part of Mitigation Measure A-1, that avoiding "direct upward illumination" means that all exterior decorative lighting of the exterior of the buildings and foliage, and exterior advertising lighting, will be directed *downward* from each fully-shielded fixture. (I note this because of the potential for ambiguity regarding decorative lighting that is directed upward from the ground toward the buildings – a popular mode of light decoration – that might be termed "indirect upward illumination").
- Commit to use only low-pressure sodium lighting, which can to some degree be filtered by astronomical instruments.
- Agree that the Tribe will eliminate the upward-directed searchlight displays that were recently begun at the current Casino and Hotel site. Eliminating the searchlight display will to some degree counterbalance the increase in exterior lighting at the project site.

The Notice of Preparation claims that there will be no impact on recreation. This is not correct: At least two recreational facilities will be impacted by the increase in nighttime lighting. These include:

- The "Observatory Campground" within the Cleveland National Forest, which is one of the nations "dark sky" camping facilities. It is host to a regular series of "Explore the Stars" public star parties, which take advantage of the dark skies of Palomar Mountain. Any increase in light pollution will adversely impact this venue.
- The Orange County Astronomers' observatory site in Anza (in Riverside County, just north of the San Diego County line, and within the Palomar light pollution

control zone) provides a dark-sky site to a club of over 500 astronomy enthusiasts. The Anza site houses the club's observatory and a dozen member's private observatories, all of which represent important investments. The OCA hosts a variety of astronomy-oriented educational activities at the Anza site each year. The 22-inch telescope in the main observatory has been used for supernova discoveries, asteroid discoveries, and studies of the light curves of asteroids and variable stars. The educational, research, and recreational uses of the site depend on continued preservation of relatively dark night skies.

I appreciate your consideration of these enhancements to the project, in the interest of minimizing its impact on the quality of our night skies.

Sincerely,



Robert K. Buchheim

cc: Chantal Saipe
Tribal Liaison
County of San Diego
1600 Pacific Highway, Rm. 212
MS A-6
San Diego, CA 92101

cc info: W. Scott Kardel
Public Affairs Coordinator, Palomar Observatory
E-mail: wsk@astro.caltech.edu

August 15, 2007

Tierra Environmental Services
9915 Businesspark Ave. Ste. C
San Diego, CA 92131

Attention: Michael Baksh

Subject: Pauma Casino Expansion and Pauma Reservation Road Improvements

Dear Mr. Baksh:

158 [Our address is Topa Road and Adams which is a private road and merges onto Pauma
Reservation Road. Our area is known as PRD6 in the county of San Diego. We are your
neighbors with issues and concerns. This is our second letter with a different concern.
That is the search lights that are now lighting up the sky at night. This has to be a
problem not only for the neighbors, but the Palomar Observatory as well.

159 [We are still concerned about the safety issue; with the expected increase in traffic to and
from the casino we are concerned about the influx of visitors to the casino trying to exit
through Adams Drive if there is backup trying to exit to highway 76. This creates a
safety concern to the residents, your neighbors, who live off Adams and Topa Road.
Adams is not a county approved road, meaning it is hardly 16 feet wide and not
accessible to vehicles thirty feet or longer. Is there a plan for a secondary entrance/exit to
the casino or will it always be at Pauma Reservation Road?

We would like to have a response to our issues and hope that you will find time to reply
in a timely manner.

Sincerely,

Alfred and Irene Savard
15481 Topa Road
PO Box 175
Pauma Valley, CA 92061
PRD6, County of San Diego



September 3, 2007

Randee Bach
Director of Design and Construction
8860 Ladue Road Suite 130
St Louis, MO 63124

Dear Randee:

Thank you for taking the time last Tuesday to speak with us about the pending construction of the Pauma Casino and Hotel. I do have the feeling that all our comments may be in vain, but I wanted to take one last opportunity to express our concerns.

160

Instead of a 23 story aardvark in this beautiful valley (replicas of the already existing hotel/casinos), why isn't a low profile building that is much more unique in style being built? Sometimes less is better! And it may just attract a more desirable clientele, people that would want to come and utilize the spa and stay longer versus just coming to gamble and use the hotel as a one night stand.

I have forwarded our comments to the Washington D.C. office and hoped that you would be able to reconsider the design one that the majority of the community would welcome.

Regards,



Irene and Alfred Savard
15481 Topa Road
PO Box 175
Pauma Valley, CA 92061

September 16, 2007

Michael Baksh
Tierra Environmental Services
9915 Businesspark Ave., Suite C
San Diego, CA 92131

Dear Mr. Baksh:

I write today concerning the huge impact of the potential Pauma Casino expansion on our community.

Safety, particularly regarding traffic on the roads in the area, needs to be dealt with before any work is done. As an example, the intersection at Reservation Road and Highway 76 is already very dangerous. The **safety** issues for **all** roads affected need to be studied thoroughly and all work done **before** any construction begins. These types of projects bring about a lot more traffic and danger to an already dangerous situation. People who live on the reservation, and locally off the reservation, as well as visitors are all at high risk if the road studies and changes are not done first. **The liability resulting from injuries or death would be the tribes, the state and county and all companies, such as yours, associated with the project, if they are not dealt with before the proposed expansion.**

There are many people who will be affected by the project that live both on and off the reservation. The injury or death of people is of foremost concern. **Safety issues** have to be addressed and met **before** the first bit of work is done. **Environmental issues** also have to be met **prior** to construction.

It is all well and good to say that the issues will be addressed, however, it is essential for people's safety and the common good that all mitigation be analyzed and completed before the project is allowed to start.

The burden of safety and environmental issues must not be allowed to rest on the people of the community who have no say in the project.

The burden of safety and environmental issues have to be placed on the people doing the project, who also will enjoy the economic benefits of said project, with the approval of the governmental entities that are called upon to safeguard the people of the community both near and far, who will be affected. Those governmental entities include these as well as others; the local Community Service District, the County of San Diego, the State of California and the Federal Government of the United States.

The height of the building needs to be considered for both safety and visual impact on the area.

I have concerns about **noise and light pollution** both **during construction** and **after** the potential project is complete. Times of construction need to be regulated. Monday through Friday construction only should be allowed. The hours need to be 7am until 6 pm only. This would allow adequate construction time and have less negative impact on the people of the community.

- 164 [The outdoor amphitheater needs to be taken from the project. The noise of it will have a negative impact on people both on and off the reservation. Noise would reverberate throughout the valley. People's sleep would be disrupted. It cannot be controlled or mitigated. It is an environmental disaster.
- 165 [Light pollution needs to be taken into account. This is disruptive to the workings of the Palomar Observatory and the people of the greater community.
- 166 [There will be huge environmental effects on water and sewage. This has to be studied in depth well in advance of the project being given the green light to proceed. The potential impact on people on and off the reservation is huge. Once the pollution and damage has been done, it may not be able to be reversed.
- 167 [Issues regarding public safety need to be satisfactorily addressed and all mitigation completed before construction.

Sincerely,



Joseph Patronik
PO Box 1220
Pauma Valley, CA 92061

14705 Vesper Road
Valley Center, CA 92084²
Tierra Environmental Services
9915 Business Park Ave. Suite C
San Diego, CA 92131
September 18, 2007

Dear Tierra Environmental Services:

Subject: Pauma Casino Expansion Project

It appears that you are the paid consulting firm for the casino expansion project. Seeing as you are paid by the Pauma Tribe to write the report, this may be an exercise in futility on my part as we know where your loyalty and motivation are in finalizing the document.

Nevertheless, the following points are legitimate and severely impact our rural lifestyle and safety in the Valley Center/Pauma Valley and must be rectified by the Pauma Tribe. They will need to put their money where their mouth is in being good and responsible neighbors to our valley residents.

1. Improving interchanges at the 15 freeway and the entrance to the casino is a complete joke. They need to totally widen the 76 to a 4 lane divided road which takes out the hairpin curves and dangerous spots. This road is a nightmare on a good day, let alone thousands of speeding, drunk gamblers trying to negotiate unknown roads and terrain after losing their money and in a foul mood to boot. Pala hasn't done a thing to improve the 76 to their casino. What a dangerous, difficult road to drive while sober!! Have YOU driven it? Safe roads are NUMBER ONE. None of them fit that description to these casinos. It is an irresponsible public safety hazard to build these casinos and not the roads to carry the motoring public safely to and from them, in addition to protecting the residents who live around them.
2. We read in our local paper the police blotter and crimes for the week. Do you know where the crime is taking place? We do. The vast majority of emergency calls are to the casinos for theft, robbery, assaults, drunk and disorderly conduct. The stats don't lie-these casinos place an unfair burden on local law enforcement to handle the losers who drive out here to cause trouble. These same losers then get in their cars and cause accident after accident on our roads with the sirens going non-stop in the evenings and weekends. It endangers our lives and our family's lives. We know-we live it. Our children are not allowed to drive home late at night for fear of the drunks on the road-they are told to stay in Escondido or Vista with friends rather than risk being killed on our dangerous, impacted roads out here.
3. A 23 story casino tower? This is not Vegas and should never be allowed to be one. What an eyesore that would be!! This is a rural farming community and should always stay that way. What irresponsible land use planning to allow such an albatross to invade this rural landscape. This must be eliminated as a consideration on any responsible development to the environment.

171 4. Have you done any animal and plant species studies on development expansion?
I could not believe the diversity of plants and insects found on our property and
surrounding areas when we moved here. These species are critical to the
environment ecosystem and must be researched as to the impact of development
of these critical areas to our birds of prey, coyotes, bobcat, quail, roadrunners,
lizards, snakes, and varied insects. These species have a right to protection by us
to sustain a vibrant ecosystem and bio-diversity.

172 5. Mr. Devers needs to understand that jobs generation does not give him a free pass
to degrading our environment and endangering our lives with Wild West
development of these casinos with complete disregard to our rural lifestyle and
safety. Peace meal concessions with a carrot here and there is inadequate and an
insult to those of us who work so hard to maintain our rural homes. We travel
slowly with expensive show farm animals in horse trailers on these roads-we need
safe passage for our livestock and our families. We cannot negotiate nor compete
with thousands of additional speeding drunk and impatient motorists who have no
regard for our safety.

173 6. DO NOT allow expansion of any additional casino space until the roads are built
to handle to traffic and all other concerns are corrected. Your full cooperation is
expected and appreciated to properly protect the public who use these roads and
the animals and wildlife who live in these valleys. We cannot accept more
pollution, noise, and degradation to our beautiful landscape.

Respectfully,
Elaine M. Overman



Cc: Chantal Saipe
1600 Pacific Highway Room 212
San Diego, CA. 92101

Dr. Michael Baksh
Tierra Environmental Services
9915 Businesspark Avenue, Suite C
San Diego, CA 92131

18 September 2007

Dear Dr. Baksh:

I am writing in regard to the expansion of the Pauma casino and the effect that its lighting may have on Palomar Observatory.

I participate in a monthly Explore the Stars program sponsored by the Forest Service as well as present astronomy to local schools in the Temecula-Murrieta area. This year at Palomar Observatory campground, where the Explore the Stars event takes place, I noticed search lights that I believe to be from Pauma. I am concerned that 1) it is getting difficult to find night time skies that are free from this type of lighting and 2) such lighting undermines the research taking place at Palomar Observatory.

It should be noted that recent reports on education cite how our education system is not producing enough scientists and engineers. I feel that protecting the night sky from excessive man-made light is how our region can do our part to ensure that there are opportunities for scientists and engineers.

I wish to make clear that I do not object to the expansion of the Pauma casino. Rather, since it resides so close the Palomar Observatory and the national forest used by many amateur astronomers, that careful attention be paid to the design of the lighting, so that the lighting will have a minimal impact on the night sky.

Thank you,



John Garrett
32851 Alderbrook Rd.
Wildomar, CA 92595

CC:

Chantal Saipe
Tribal Liaison
County of San Diego
1600 Pacific Highway, Rm. 212
MS A-6
San Diego, CA 92101

Dear Ms. Saipe;

Sept. 18, 2007

This letter is in response to the Pauma Casino expansion. I am a long time resident who has attended numerous community meetings in the past few years concerning Highway 76 and all of the casinos' impacts upon our rural community. It is my opinion that good communication between the community and the tribes is the way to constructively tackle the issues that face us. Due to nature of a sovereign nation normal avenues and procedures due not apply. Therefore, your intervention as a liaison is paramount to achieving mutual goals.

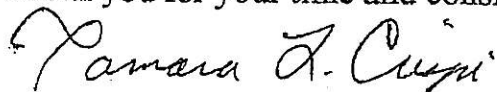
175 I have witnessed all parties involved agreeing that we have a need to address three major, fatal intersections. Those being HWY 76 and Pauma Reservation Road, HWY 76/Cole Grade, and HWY 76 and S6. Everyone agrees that these are critical. We concluded simple flashing lights and simple signage would save lives and be very inexpensive and cost effective. Secondly, nobody wants another 23 story tower eye sore that resembles a refrigerator in this beautiful valley. There is no good reason why Foxwoods can not construct something more environmentally enhancing. Good
176 examples are illustrated in the area of Sedona where the structures are low, Santa Fe style villas that blends in to the hillsides. The tribe does in fact have the acreage to accomplish this.

We as residents strongly feel we should be heard concerning these issues. It is my opinion that given this unique situation we have an opportunity to press for what we want. I believe if delivered positively we have a right and an obligation to negotiate for what we want.

You are in a position to effectively negotiate our huge concerns for safety and appearance. I urge you as an employee of the county paid by the taxpayers to serve the citizens of this valley.

Please take a moment to review this letter and realize I can honestly say the "locals" are crying out for compromise and are tired of being railroaded by the tribes. Please deliver.

Thank you for your time and consideration.



Tamara L. Crispi
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Pauma Valley, CA 92061
(760) 742-4246

P. O. Box 540
Pauma Valley, California 92061
Tel: 760.481.4201 Fax: 760.742.4384
E-mail: cmathews@speedband.com

By: Federal Express

September 18, 2007

The Honorable
Phillip N. Hogen
Chairman, National Indian Gaming Commission
1441 1 St. NW, Suite 9100
Washington, DC 20005

Mr. Bradley Mehatty, REM, CIPS
NEPA Compliance Officer
National Indian Gaming Commission
1441 1 St. NW, Suite 9100
Washington, DC 20005

The Honorable
Chris Devers
Chairman, Pauma Band of Mission Indians
1010 Pauma Reservation Road
P.O. Box 369
Pauma Valley, California 92061

Michael G. Baksh, Ph.D.
Tierra Environmental Services
Suite C
9915 Businesspark Avenue
San Diego, California 92131

Gentlemen:

As residents and visitors of Pauma Valley concerned about public safety and sustaining a rural environment, we respectfully submit for your consideration recommendations regarding the Draft Environmental Assessment and Tribal Impact Report, dated July 27, 2007, (the "TEIR") for proposed construction of a Pauma Casino and Hotel (the "Project") on tribal land in Pauma Valley, California (the "Reservation"); which TEIR has been prepared by Tierra Environmental Services for the National Indian Gaming Commission (the "NIGC") and the Pauma Band of Mission Indians (the "Tribe").

We see it as the responsibility of all to ensure that major developments invariably place the highest importance on public safety and that such developments do not operate until such time as all public safety issues, and appropriate environmental issues, have in-place solutions. Such responsibility especially rests on the shoulders of elected and appointed officials establishing policy, and the staffs of public agencies implementing such policies in their negotiations among various stakeholders.

We are vehemently of the opinion that the TEIR neither appropriately presents nor meaningfully addresses critical off-Reservation public safety and environmental issues, directly attributable to impacts of the Project, in that the TEIR:

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- i. significantly understates the off-Reservation impacts of the Project (particularly regarding Aesthetics, Transportation/Traffic, and Water Resources), and
 - ii. reaches unsupported, largely qualitative (not quantitative), and incorrect conclusions that the minimal mitigations recommended, many of which will not certainly be in place prior

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to any opening of the Project, will result in all off-Reservation environmental impacts being "less than significant," and

- iii. fails to invariably adopt methods of rigorous scientific analysis because its conclusions frequently rely upon single-point parametric assumptions (some now out of date) of doubtful certainty, without any evaluation of the sensitivity of the TEIR projections to to-be-expected variations between the assumptions and eventual reality, and
- iv. fails to consider a reasonable range of Project alternatives, particularly including a lower hotel tower and parking structure (which would alleviate many aesthetic concerns), and dismisses, essentially offhand and with no quantitative detailed analysis, those limited alternatives that the TEIR does mention.

We respect the sovereignty of the Band with regard to its tribal lands, but believe that such sovereignty can and should be exercised without the significant, adverse and not-fully-mitigated, off-Reservation impacts which would result if the TEIR were to be accepted as drafted and the Project to proceed as apparently contemplated. Our recommendations, which are both interdependent and alternate, are fully detailed in the attachments to this letter and in summary are:

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- I. *The TEIR should be revised to include the near term traffic identified in the SR-76 East Corridor Study prepared by the Reservation Transportation Authority with the involvement of the Tribe; which levels of traffic volumes are higher than, and have a high daily variation not included in, the assumptions set forth in the TEIR.*
- II. *The traffic calculations of the Project should be further examined as the TEIR understates the possible Peak Traffic Hourly Flow Rate (especially for employee and special event traffic) and, even with the limited mitigation proposed, the Project will result in a far worse Levels of Service than those projected by the Traffic Impact Analysis (particularly in the vicinity of Pauma Reservation Road).*
- III. *The basis of the traffic calculations of the Project should be independently reviewed and verified for their internal consistency, especially with regard to the apparent errors, the assumption of the same traffic percentage origination as occurs before the Project, and the use of outdated and historic, not Project specific, studies to estimate traffic origination volume.*
- IV. *The TEIR should analyze the Level of Service at the intersection of Pauma Reservation Road and the entrance to the Project and make appropriate recommendations regarding Pauma Reservation Road, especially requiring mitigation prior to Project occupancy that would provide paved shoulders for emergencies (to avoid congestion), an adequate length turn lane into the Project, appropriate traffic control at the exit from the Project, and emergency evacuation plans in the event of a blockage of the single road access.*
- V. *The TEIR should be amended to consider the extent to which bus and other heavy vehicle traffic will impact the projected Levels of Service at the intersection of SR-76 and Pauma Reservation Road, and the possibility of providing bus service directly to the Project. The mitigation and the signalization should be reviewed to include the provision of bus slowing and acceleration lanes as well as space for boarding and descending from buses. Further, the TEIR should be amended to consider the impact on Level of Service of bus-using pedestrians crossing SR-76 at Pauma Reservation Road, and the accommodations desirable to provide fully for their safety there, and on Pauma Reservation Road itself.*

- 186 [VI. *The TEIR should be supported by a Traffic Impact Analysis that exhaustively examines the impact of variations in the assumed parametric values (for traffic Volume, Peak Hour Factor, geographic distribution of origination, and the like) on calculated Levels of Service, thereby providing greater certainty of the reliability and attainability of calculated Levels of Service.*
- 187 [VII. *A condition of the approval of the Project should be that it may not be opened until such time as all of the traffic mitigations are completed, including the implementation of the recommendations of the SR-76 East Corridor Study (particularly from Pala Mission Road to Valley Center Road).*
- 188 [VIII. *The TEIR should more carefully analyze the size of the water extraction facility necessary to operate the Project, as approved, without establishing what appear to be excessive extraction capabilities that can result in diminution of local and distant water supply. Additionally, the Project approval should preclude water extracted by equipment established under the TEIR from being used for purposes other than those of the Project.*
- 189 [IX. *The mitigation proposed in the TEIR regarding lighting effect off-Reservation should be reviewed to providing more specifics and, in particular, to establish a condition of the development of an external lighting plan for approval by the County of San Diego and the authorities controlling the use of Palomar Observatory well prior to the start of the Project and the construction of buildings or facilities.*
- 190 [X. *The Project should be redesigned to be less high, possibly no more than 8 stories, thereby having a footprint of approximately 3 times that of that now proposed. Such a reduction in height would both better enable the structure to blend into the local topography and not provide the, however remote, occupant danger hazard of a 23 story structure.*
- 191 [XI. *The TEIR should analyze, and make appropriate mitigation recommendations regarding, any impact of aviation safety arising from any construction of the Project proximate to the landing and take-off patterns of nearby private airports.*
- 192 [XII. *Neither the TEIR nor the Project should be approved until such time as there is agreement, commitment and in-place funding for a road system that provides acceptable Levels of Service throughout the vicinity of the Project; a direct cause of both approximately 25% of such traffic and the need for extensive improvements to roads that intersect with SR-76 (without adversely impacting the intent of the off-Reservation community that SR-76 should be a scenic highway).*
- 193 [XIII. *The TEIR should be reviewed to ensure it is in full compliance with Section 10.8 (especially 10.8.1 (b)) of the Tribal-State Compact, as amended on June 21, 2004 between the State of California and the Tribe, particularly with regard to the deferral of the identification of mitigation measures and the identification and discussion of alternate mitigation measures.*
- 194 [XIV. *The several alternate projects that the TEIR postulates should be analyzed in more detail than now contained in the assigned 4 pages of a 220+ page report to ensure that the rightful ambitions of the Tribe in the exercise of its sovereignty could not be achieved with a smaller Project; one that would not be so likely to enrich non members of the Tribe at the expense of the local, off-Reservation environment.*

Attached are detailed analyses supporting the above recommendations, wherein, unless otherwise stated, numbered references to sections, figures, pages are to the corresponding numbers in the TEIR and the content of quotation marks has been extracted from the TEIR.

We look forward to your enabling a response to our recommendations resulting in a project that fulfills the rightful objectives of the Tribe and recognizes their sovereignty but creates no materially adverse impact upon the off-reservation environment of Pauma Valley nor upon the safety of both its on- and off-Reservation residents and visitors.

Very truly yours,



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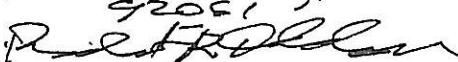
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Marvin Frisoff

Recommendations regarding the TEIR for the Pauma Casino and Hotel

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Recommendation I

The TEIR should be revised to include the near term traffic identified in the SR-76 East Corridor Study prepared by the Reservation Transportation Authority with the involvement of the Tribe; which levels of traffic volumes are higher than, and have a high daily variation not included in, the assumptions set forth in the TEIR.

Issue

The "SR-76 East Corridor Study" of the traffic in the vicinity of the Project, prepared by the Reservation Transportation Authority, with the involvement of the Tribe, includes counts of today's traffic which are higher than the assumptions of the TEIR of near term traffic, resulting in an overestimate of the current and projected Levels of Service.

Commentary

The Reservation Transportation Authority published in March 2007 a draft 'SR-76 East Corridor Study' (the "SR76ECS") with the involvement of the Tribe, other Indian nations, and others. That study presents a detailed analysis of current traffic in the vicinity of the Project measured in metered traffic studies conducted in August 2006 by the Traffic Data Services unit of the California Department of Transportation.

Comparing near term traffic volumes of the hard data of SR76ECS (its Table 7-6) with the assumptions of the TEIR (Figure 3-4 Appendix F) shows:

Road Segment	ADT of SR76ECS	ADT of TEIR
Pauma Reservation Road ("PRR")	6,570	2,840
SR-76 east of PRR	11,160	8,090
SR-76 west of PRR	12,460	12,240
Valley Center Road (south of SR-76)	9,570	6,670

This table clearly shows that the TEIR underestimates the actual measured near term traffic, and does not reflect the LOS E (near gridlock) of four road segments set forth in SR76ECS.

It would seem prudent to incorporate in the TEIR the actual levels of today's traffic from the SR76ECS data and to recalculate the Levels of Service of the TEIR to understand the true effect of the Project traffic.

Comparing traffic volumes projected for the Buildout Year 2035 of SR76ECS (its Table 7-1) with the projection for the Horizon Year 2030 of the TEIR (Figure 3-10 Appendix F) shows:

Road Segment	ADT	2035 of SR76ECS	2030 of TEIR
Pauma Reservation Road ("PRR")		20,950	9,712
SR-76 east of PRR		25,900	15,181
SR-76 west of PRR		29,000	19,151
Valley Center Road (south of SR-76)		19,090	14,091

Again, these are significant discrepancies and it would seem prudent for the TEIR to address the traffic volumes of the SR76ECS which have been developed by a more broadly involved set of stakeholders.

Recommendation II

The traffic calculations of the Project should be further examined as the TEIR understates the possible Peak Traffic Hourly Flow Rate (especially for employee and special event traffic) and, even with the limited mitigation proposed, the Project will result in a far worse Levels of Service than those projected by the Traffic Impact Analysis (particularly in the vicinity of Pauma Reservation Road).

Issue

The TEIR understates the Peak Hour Traffic Flow Rate subsequent to completion of the Project, thereby overstating the calculated Levels of Service.

Commentary

Figure 25 projects the Near Term Plus Project PM Peak Hour Traffic (the "Peak Traffic") on Pauma Reservation Road at its intersection with SR-76 (the "76 Intersection") to be 322 outbound and 279 inbound to the Project. The assumed Peak-Hour Factor of 0.90 represents a remarkably even distribution of traffic over a 24-hour period.

The TEIR states that the Project will employ 2,200 individuals, the vast majority of whom will access the Project via the 76 Intersection. Of those individuals, it is probable that several hundred will work similar shifts and enter and leave the Project in a very short time span.

Additionally, the TEIR states that the Project will provide a 1,500-seat multi-purpose area and a 200 seat lecture hall. Events in those facilities will result in large numbers of customers both arriving and departing in shorter intervals of time than for hotel guests and casino patrons.

Further, the TEIR states that the Project will provide 3,900 parking spaces. Such parking capacity does not seem consistent with the TEIR values of the Peak Traffic as it represents approximately 12 hours of Peak Traffic flow. As the assumed park-period distribution is not stated in the TEIR, the relation between parking and traffic flow rates cannot be determined.

Section 3.2 of Appendix F states that Event Center traffic was not considered as "significant by the Pauma Tribe because of the infrequency of use and the off-peak times, which would be less significant than PM hour impacts." The TEIR also states that the Tribe believes that facilities smaller than the Proposal "would not allow them to be competitive with other tribal resorts in the local area." Those tribal resorts use their facilities and outside performance stages to regularly mount evening entertainments, headlined by star names, which attract large numbers of attendees.

Correspondingly, the traffic calculations of the Project should be further examined in detail to ensure they represent the traffic most likely resultant from a 2,000 slot, 50+10 table casino, combined with a 400 room hotel property and a 1,500 seat multipurpose area, collectively employing 2,200.

Recommendation III

The basis of the traffic calculations of the Project should be independently reviewed and verified for their internal consistency, especially with regard to the apparent errors, the assumption of the same traffic percentage origination as occurs before the Project, and the use of historic and outdated, not Project-specific, studies to estimate traffic origination volume.

Issue

The traffic forecasts of the TEIR are not internally consistent.

Commentary

As one example, Figure 25 projects the Near Term Plus Project PM Peak Hour Traffic Hourly Flow Rate (the "Peak HFR") eastbound on SR-76 immediately east of its junction with Pauma Reservation Road (the "76 Intersection") as 310 continuing SR-76 eastbound and 110 joining SR-76 eastbound by turning left off Pauma Reservation Road, for a total of 420.

Yet, less than a mile (Figure 4-1 Appendix F) further east on SR-76, with no intervening access, the eastbound Peak HFR entering the junction of SR-76 and Cole Grade Road (the "Cole Grade Intersection") is 308, of which 239 turn right onto Cole Grade Road and 69 continue eastbound on SR-76.

Accordingly, the analysis as presented raises the question as to the destination of the approximately 100 Peak HFR discrepancy, as the Peak Hour occurrence will not significantly differ over the one-mile separation.

Elsewhere the Traffic Impact Report contains clerical (and therefore possibly mathematical) errors; one obvious example being the wrong street names in the heading of the Two-way Stop Control Summary for SR-76 and Pauma Reservation Road.

Yet another example of inconsistency is in Figure 3-9 Appendix 5. This projects the Horizon Year PM Peak Hour Traffic Hourly Flow Rate (the "HFR") on SR-76 immediately north of its intersection with Cole Grade Road as 492 (210 continuing on SR-76 and 282 entering from Cole Grade Road), yet less than a mile west (with no intervening access) immediately prior to the 76 Intersection the northbound traffic on SR-76 is projected to have a HFR of 630 (545 continuing on SR-76 and 85 entering Pauma Reservation Road).

According to the TEIR the Project is both located "about five miles away" (Section 3.16) from and "11 miles east of" (Section 1.2 Appendix F) of the SR-76 and I-15 interchange. The difference is critical to the extent of the improvements to SR-76 necessitated by the Project.

Recommendation IV

The TEIR should analyze the Level of Service at the intersection of Pauma Reservation Road and the entrance to the Project and make appropriate recommendations regarding Pauma Reservation Road, especially requiring mitigation prior to Project occupancy that would provide paved shoulders for emergencies (to avoid congestion), an adequate length turn lane into the Project, appropriate traffic control at the exit from the Project, and emergency evacuation plans in the event of a blockage of the single road access.

Issue

The Average Daily Traffic on Pauma Reservation Road is likely to be far in excess of its reasonable capacity, while no information is available on the Level of Service at the entrance to the Project.

Commentary

Figure 24 projects the Near Term Plus Project Average Daily Traffic (the "ADT") on to be 7,352 (599 PM Peak, a value believed to be understated) on Pauma Reservation Road; a road created as a Residential Road anticipating an ADT of 1,500 on a roadway approximately 24 feet wide with unpaved shoulders on both sides.

The Reservation borders one side of Pauma Reservation Road which is also used for access by local residents to their off-Reservation homes, and to agricultural groves, on both Pauma Reservation Road and Adams Road, as well as by the Tribe and its invitees accessing the Reservation.

Other than for its use to access the Project, Pauma Reservation Road is lightly traveled and the majority of its projected traffic would be entering and exiting the Project. Exiting traffic would turn left across local eastbound traffic proceeding past the Project and then into the downhill stream of local traffic, potentially causing a major traffic hazard. There are no traffic engineering calculations for the intersection of Pauma Reservation Road and the entrance to the Project.

The now projected ADT on Pauma Reservation Road is in excess of quadruple what would ordinarily be anticipated causing excessive noise and danger of accident to those whose properties adjoin it and those who travel on it other than for Project access.

Pauma Reservation Road will be the only paved vehicular access to the entrance to the Project. During the life of the Project it is probable that this road will be blocked, whether by accident, police investigation, security management, or natural catastrophe. Correspondingly, the TEIR should examine and set forth the impact on the off-Reservation environment of such events and the policy that the Project will adopt in its handling of the occurrence of such events, including the unique concerns of regularly transporting presumably significant amounts of United States currency in the form of coin and notes.

Recommendation V

The TEIR should be amended to consider the extent to which bus and other heavy vehicle traffic will impact the projected Levels of Service at the intersection of SR-76 and Pauma Reservation Road, and the possibility of providing bus service directly to the Project. The mitigation and the signalization should be reviewed to include the provision of bus slowing and acceleration lanes as well as space for boarding and descending from buses. Further, the TEIR should be amended to consider the impact on Level of Service of bus-using pedestrians crossing SR-76 at Pauma Reservation Road, and the accommodations desirable to provide fully for their safety there, and on Pauma Reservation Road itself.

Issue

No appropriate provision is made for access to the Project by public (bus) transport.

Commentary

SR-76 is served by public bus transport operated to a published schedule by the North San Diego County Transit District (the "Bus"). It is probable that some of the 2,000 projected employees of the Project and its guests and patrons will travel to the Project by Bus, for financial and ecological reasons.

The TEIR fails to consider what amount of people will travel by Bus to the Project, how such individuals will alight from the Bus eastbound and westbound on SR-76 near to its intersection with Pauma Reservation Road (the "76 Intersection"), how they will cross SR-76, how their safety will be protected there and while they walk along Pauma Reservation Road, or whether the Bus should traverse Pauma Reservation Road to the Project.

The traffic calculations for the signalized, claimed to be mitigated, 76 Intersection provides only 3 seconds of 'All Red' in a 120 second Cycle Length and clearly does not make adequate allowance for any pedestrian traffic crossing SR-76. Even then, the Intersection is unsatisfactorily rated at Level of Service D and will create significant delays for the 669 projected PM Peak Volume Hourly Flow Rate continuing on SR-76 through the intersection. (Delay 43.4).

The TEIR does not apparently contemplate the provision of an appropriate Bus facility proximate to the 76 Intersection that would provide space for buses to be boarded and descended from without interfering with other traffic on either the through lanes (eastbound and westbound) or right turn lanes (entering and exiting Pauma Reservation Road).

The Project both during its construction and operating phases will be serviced by heavy vehicles of maximum allowable length. The TEIR addresses neither the issues of such vehicles turning from SR-76 onto the narrow Pauma Reservation Road, and returning, nor its grade effect. During the construction phase it is probable that there will be additional disruptions along the entirety of SR-76 from large equipment transports, including those requiring movement permits.

Recommendation VI

The TEIR should be supported by a Traffic Impact Analysis that exhaustively examines the impact of variations in the assumed parametric values (for traffic Volume, Peak Hour Factor, geographic distribution of origination, and the like) on calculated Levels of Service, thereby providing greater certainty of the reliability and attainability of calculated Levels of Service.

Issue

The Traffic Impact Analysis relies for its integrity upon assumptions made in the TEIR concerning traffic Volume, Peak Hour Factor, geographic distribution of origination, and the like. The combination of small variations from these assumptions can result in significant deterioration of the calculated Levels of Service, which in many cases are already projected to be marginal at Level of Service D and is actually Level of Service E according to actual traffic measurement conducted by the state of California..

Commentary

The precision of the determination of Level of Service (the "LOS") by computer modeling (Appendix F) masks the fact that the accuracy of the predicted value relies upon the accuracy of the assumptions upon which the calculation is made. It is unlikely that the assumptions made in the TEIR for traffic Volume, Peak Hour Factor, geographic distribution of origination, and the like will prove to be entirely accurate at the time of any completion of the Project. Further, the combination of small changes in each parameter of a multi-factor model can result in significant changes in the outcome value calculated by that model (analogous to tolerances all stacking the 'wrong' way in wood- or metalworking).

For these reasons, a rigorous scientific approach would have been to extend the computer modeling to include combinations of somewhat different parametric assumptions. In that way the sensitivity of the calculated values of the computer model to different combinations of variations in parametric assumptions could be established. It would then be possible to improve the quality and certainty of the projected LOS by making separate assessments of the likelihood, at the margin, of the eventuality of such combinations of parametric values.

Such a sensitivity analysis is particularly important in the case of the TEIR both because of the very significant growth of traffic volume along what is presently a quiet rural road resultant from any implementation of the Project, and the extensive reliance of the TEIR upon the notion that LOS D (in many cases a marked deterioration from today's LOS) has to be acceptable to the off-Reservation community.

Recommendation VII

A condition of the approval of the Project should be that it may not be opened until such time as all of the traffic mitigations are completed, including the implementation of the recommendations of the SR-76 East Corridor Study (particularly from Pala Mission Road to Valley Center Road).

Issue

If the mitigations throughout SR-76 are not completed prior to the completion of the Project, then the Levels of Service and the potential for traffic accidents and harm to human life will be far more adverse than projected in the TEIR.

Commentary

Even using the Peak Traffic that is believed to be understated, the Traffic Impact Analysis of the TEIR finds (Executive Summary, Appendix F) that Project Traffic will adversely impact:

- SR-76 west of Old Highway 395 currently operating at LOS E and/or F, and,
- SR-76 between I-15 and Cole Grade Road currently operating at LOS E and/or F, and
- The intersections of SR-76 with both Pauma Reservation Road and I-15

The TEIR proposes certain mitigation to these serious impacts by (Section 5.0 Appendix F):

- by the Tribe discussing with CALTRANS and SANDAG the timing of the SR-76 corridor study versus any interim improvement, and
- signalizing and reconfiguring the intersection of SR-76 and Pauma Reservation Road (the "SR-76 Intersection"), and
- recommending that the Tribe pay a fair share towards improvements along SR-76.

While the Tribe has apparently agreed to fund limited improvements at the SR-76 Intersection and has informed CALTRANS that such should be made prior to the opening of the Project (Page 130), it is far from clear that such will be the case. Furthermore, there is no timing committed regarding the other mitigations along SR-76, in particular from Pala Mission Road east to Valley Center Road.

Without these mitigations being completed prior to the projected completion of the Project in 2009 (Page 120) the Level of Service and the consequent risk of traffic accidents will be significantly more adverse than those contained in the TEIR.

This 'mitigate first, operate second' approach has been successfully adopted for the Palomar Aggregates project (Page 142) so that desired road improvements will be completed prior to the operation of the facility.

Recommendation VIII

The TEIR should more carefully analyze the size of the water extraction facility necessary to operate the Project, as approved, without establishing what appear to be excessive extraction capabilities that can result in diminution of local and distant water supply. Additionally, the Project approval should preclude water extracted by equipment established under the TEIR from being used for purposes other than those of the Project.

Issue

The projected expansion of water extraction capability to a capacity of 444,000 gallons per day appears excessive compared to the historic usage of 90,000 gallons per day for the Tribe, allowing for significantly reduced agricultural demand and the expanded casino and hotel.

Commentary

The existing three wells on the Reservation have a stated capacity of 233,000 gallons per day ("gpd") at an allegedly, but not scientifically supported, aquifer-recoverable 65% utilization (Page 74). Of that capacity, water demands averaged 90,000 gpd in 2006 including 54,000 gpd for the existing casino. Of the casino usage some 50,000 gpd is apparently reclaimed.

The TEIR projects (Page 16) expanding the ground water extraction capacity with three additional wells providing the Project a total capacity of 444, 000 gpd.

The TEIR projects that the Project, on the Pauma tract of the Tribe, will require the clearing of approximately 34.7 acres of citrus groves (largely replaced with flatwork and other construction) and the replanting of some 4.2 acres of citrus for a net loss of 30.5 acres of on-Reservation agricultural land. At the same time, the capacity for reclaimed water is projected to increase by expanding the existing wastewater treatment facility from 54,000 gpd to an average of 227,500 gpd.

Accordingly, the capacity for producing recycled water will markedly increase while demand for agricultural water will markedly decrease. The TEIR is silent as to the disposition of this apparently excess amount of recycled water.

Therefore the TEIR statement (Section 4.8b) that there "would not be a net increase in water use on the Reservation" is, at best, misleading. For, if there were to be no net increase in water usage there would be no requirement to increase the water extraction capacity, let alone by such a significant amount, as the existing capacity is well in excess of current demand (including that for to-be-cleared citrus groves).

Recommendation IX

The mitigation proposed in the TEIR regarding lighting effect off-Reservation should be reviewed to providing more specifics and, in particular, to establish a condition of the development of an external lighting plan for approval by the County of San Diego and the authorities controlling the use of Palomar Observatory well prior to the start of the Project and the construction of buildings or facilities.

Issue

The mitigation proposed in the TEIR for the off-Reservation effects of on-Reservation lighting is inadequate, resulting in adverse effect upon world-class scientific research conducted in the vicinity of the Reservation and the off-Reservation scenic vista of Pauma Valley.

Commentary

The generic nature of the proposed mitigation set forth in Mitigation Measure A-1 (Page 82) is inadequate in its lack of specifics and reliance upon generalities.

In addition, by its use searchlights to serve as promotional, attention-getting devices, the Tribe has evidenced its disinterest in reducing light pollution and satisfaction of the vital needs of the unique and powerful research center at nearby Palomar Observatory.

The mitigation does not address the issue of indirect upward illumination from reflection off the face of the Project buildings, structures, and concrete parking lots and structures; which amount of reflection can be favorably impacted by the selection of construction styles and materials, as well as landscaping proximate to the structures. Further, the intensity of the light as viewed from a distance to the Project can be favorably effected by the light from dispersed, not concentrated, sources, the avoidance of 'wash' lighting, the selection of source technologies and colors, and other factors.

Aside from the impact on the critical scientific endeavors at Palomar Observatory, the early, careful development and execution of an integrated external lighting plan can ensure that what the TEIR terms "the largest and tallest structure in the Pauma Valley" does not at night turn into a beacon of off-Reservation despair.

Recommendation X

The Project should be redesigned to be less high, possibly no more than 8 stories, thereby having a footprint of approximately 3 times that of that now proposed. Such a reduction in height would both better enable the structure to blend into the local topography and not provide the, however remote, occupant danger hazard of a 23 story structure.

Issue

Contrary to the finding of the TEIR, the 23 story hotel of the Project would have a substantial adverse effect upon the off-Reservation scenic vista of Pauma Valley.

Commentary

The outcome of the construction of "the largest and tallest structure in the Pauma Valley" would be that in "many areas where views of the existing casino are currently not possible views of the upper portions of the hotel tower would be possible." (Page 76)

The presence of a larger several hundred foot tall building in the center of "a rural agricultural valley" (Page 21) would markedly detract from the scenic beauty of the valley in its center, whereas the hotel towers of other tribes are located to the ends of the valley and are not so obtrusive throughout the valley.

Contrary to the contention of the TEIR that residential development is "concentrated to northwest of the Project Site" (Page 22) there are hundreds of residences to the west and southwest of the Project site. These residences are situated both on higher elevations across the valley (south and west) from the Project and on the floor of the valley in the Pauma Valley Country Estates (beginning some 8,000 feet from the Project site, Figure 6.) .

As is clearly demonstrated by the contrast of the Project site and View Simulated from the carefully selected Key Observation Points (Figures 7 and 17, Figures 9 and 19, and Figures 10 and 20) the Project will both be an immediate focus point for those viewing the valley from off-Reservation and, because of its height compared to surrounding vegetation and its being viewed in contrast to an agrarian vista.

The bland statement that "[w]hile the development would be highly visible it would be designed to be aesthetically pleasing" (Page 76) lacks in both specificity and defined commitment and is an impractical for a large, several hundred foot tower situate in otherwise wide open space.

Other than the four-mile-distant availability of a 100-foot Ladder Truck, the TEIR contains no specific actions nor mitigation measures to provide high-rise fire security.

Recommendation XI

The TEIR should analyze, and make appropriate mitigation recommendations regarding, any impact of aviation safety arising from any construction of the Project proximate to the landing and take-off patterns of nearby private airports.

Issue

While the TEIR mentions that the Project is, and it indeed is, proximate to two private airports, one of which is frequently used, it presents no analysis of the impact of the Project on aviation safety nor makes any required mitigation recommendations.

Commentary

Of the two private airports mentioned in the TEIR, Pauma Valley Airpark has a surfaced runway (29/11) that is approximately 2800 feet long and 50 feet wide and is approximately 756 feet above MSL. Nearly all traffic utilizes Runway 29 (landing and taking off to the north/east) which has a right-hand traffic pattern at an altitude of 1,500 feet..

Paragraph 4-3-3 of the Airman Information Manual defines the approach pattern to be followed when landing at an airport with no local tower. The Project is exactly on the defined 45 degree flight path for a normal downwind approach to Runway 29 and, as such, a hotel tower at the Project could be a flight hazard for most aircraft arriving at Pauma Valley Airpark.

Accordingly the TEIA should consider, with the advice of relevant authorities such as the Federal Aviation Administration, the issues of any obstruction of air space that could resultant from the Project and the impact of such upon existing operations at local, privately-owned airfields (especially regarding obstruction markings and lighting).

Recommendation XII

Neither the TEIR nor the Project should be approved until such time as there is agreement, commitment and in-place funding for a road system that provides acceptable Levels of Service throughout the vicinity of the Project; a direct cause of both approximately 25% of such traffic and the need for extensive improvements to roads that intersect with SR-76 (without adversely impacting the intent of the off-Reservation community that SR-76 should be a scenic highway).

Issue

The TEIR projects that by 2030 (the "Horizon Year") the casino and hotel operations of the Tribe will represent approximately 25% of the traffic in Pauma Valley with essentially every intersection and road segment having a Level of Service F

Commentary

The TEIR projects that the casino and hotel operations of the Tribe will represent approximately 25% of the traffic on SR-76 in the vicinity of the Project (as measured by calculated Peak Traffic presenting at the intersection of SR-76 and Pauma Reservation Road, Figure 29). The TEIR projects that the Average Daily Traffic (the "ADT") on SR-76 will be 19,151 north of, and 15,181 south of, its intersection with Pauma Reservation Road.

On Pauma Reservation Road, the Horizon Year ADT is projected to be 9,712, more consistent with the 10,900 capacity at Level of Service ("LOS") D for a Rural Connector (40 foot wide in an 84 foot right of way) than for a 24 foot residential road with unpaved shoulders.

The TEIR projects a LOS F for each of the intersections of SR-76 with Cole Grade Road and Valley Center Road. With these roads projected to carry ADTs of 8,180 and 14,091, respectively, these intersections, intervening intersections not included in the TEIR (such as Pauma Valley Drive) and the road segments themselves will become increasingly congested, especially with the effects of developments, residential and other, that are in various stages of planning but that are not included in the Cumulative Impacts – Project List (Page 180.) Such ADT values will require significant improvements not only to the SR 76 intersections but also the entirety of the road segments to maintain an acceptable Level of Service.

In support of the projected ADT on SR-76, the TEIR states (Page 69) that SR-76 is "classified as a major road." Elsewhere, (Page 56) the TEIR states that the Pala-Pauma Planning Group supports "the Designation of SR-76 as a scenic highway" which according to the TEIR "would allow a new turn out lane, a middle turn lane, and scenic turn out lanes, effectively resulting in a three-lane highway". Such a scenic highway is not comparable to the four-lane, 78 foot wide road in 98 feet right of way of a Main Road. Therefore, the TEIR statement (Page 81) that the Project would "not affect the eligibility of SR-76 from I-15 to SR-79 for designation as a scenic highway" is patently not correct.

Recommendation XIII

The TEIR should be reviewed to ensure it is in full compliance with Section 10.8 (especially 10.8.1 (b)) of the Tribal-State Compact, as amended on June 21, 2004 between the State of California and the Tribe, particularly with regard to the deferral of the identification of mitigation measures and the identification and discussion of alternate mitigation measures.

Issue

The TEIR both fails to avoid deferral of mitigation measures and does not discuss possible alternate mitigation measures as required by the terms of the Tribal-State Compact between the Tribe and the State of California.

Commentary

The Tribal-State Compact, as amended on June 21, 2004 between the State of California and The Tribe at Section 10.8.1 states with regard to a TEIR that “[w]here several measures are available to mitigate an effect, each should be discussed and the basis for selecting a particular measure should be identified” and further that “[f]ormulation of mitigation measures should not be deferred until some future time.”

On several occasions the TEIR defers the identification of specific mitigation measures, in some cases indicating that they are subject to future negotiation, including the issues of:

- Mitigation Measure M-1 not providing specific mitigation nor providing a commitment on the part of the Tribe other than at some future time to “make a fair contribution to the RTA [not the State nor the County] for near-term improvements to the intersection of SR 76/I-15 NB Ramp identified in the SR-76 Corridor Study”, and
- Mitigation Measure M-3 providing no specific mitigation nor commitment on the part of the Tribe other than to say “[i]t is recommended that the Proposed Project pay a fair share as determined by the MOU the Tribe will enter toward implementation of the results of the corridor study to address cumulative indirect impacts associated with the Proposed Project.”, and
- while Section 5.1.1 addressing the issue of Aesthetics states “[m]itigation measures have been proposed to ... provide an attractive appearance to the highly-visible casino ... there are no specific mitigation measures defined in the TEIR, presumably they are being deferred to the future, and
- few, if any, of the limited number of mitigation measures proposed provides any alternative measures that were considered and the reason for the selection of the defined measure(s), and

Additionally, other the statement (Page 149) that the “ ... Project would not result in significant off-reservation growth ... “ is not consistent with the provision of 2,200 jobs in a 115 square mile area having only a population of 6,200. There fore the TEIR fails to adequately consider and remediate the induced growth resultant from the Project.

Recommendation XIV

The several alternate projects that the TEIR postulates should be analyzed in more detail than now contained in the assigned 4 pages of a 220+ page report to ensure that the rightful ambitions of the Tribe in the exercise of its sovereignty could not be achieved with a smaller Project; one that would not be so likely to enrich non members of the Tribe at the expense of the local, off-Reservation environment.

Issue

The scale of the Project is inconsistent with the TEIR-defined objectives of the Project, leading to the possibility of a smaller scale project being able to fulfill the needs of the Tribe.

Commentary

Included in the purpose of and need for the Project which the TEIR defines (Section 1.2) as key considerations are to broadly:

- improve the socio economic status of the Tribe, and
- provide additional employment opportunities for the Tribe, and
- fund other expenditures permitted or required by the Indian gaming Regulatory Act (the "IGRA").

The TEIR identifies that the Project will employ 2,200 people.

It is clear that such employment is far in excess of that needed to fully employ a 176 member Tribe; one with an unemployment rate of 65% (Section 1.2). The existing facility employs some 500 people; possibly adequate to provide employment for all the Tribe, given training and education. Possibly, therefore, even the provision of 1,700 additional jobs will not offset the high rate of unemployment, which may have causes other than job availability.

Based upon industry statistics of some \$250-300 net take per slot machine per day (Source: San Diego Union Tribune) generating net income of some 10% the Project's 2,000 (expandable to 2,500) slots would, in addition to the income produced elsewhere in the Project, very conservatively generate income for the members of the Tribe in the range of \$25-30 million dollars; some \$175,000 per year for each and every member of the Tribe.

The assumption of those parameters of employment and finances generates the question as to whether the rightful ambitions of the Tribe in the exercise of its sovereignty could be achieved with a smaller Project that would not create such adverse impacts on the local, off-Reservation environment.

September 20, 2007

Paul Hogan
Chairman
National Indian Gaming Commission
Washington, D. C.

BY FACSIMILE (202) 632-7066

Dear Chairman Hogan,

I am writing in regard to the application of the PAUMA
BAND OF INDIANS of Pauma Valley, California, for the
construction of a casino/hotel project in the Pauma Valley.

209 I am a resident and farmer in the Pauma Valley. I
have grave concerns about the impacts such a large scale
project will have on the local community. In particular,
the traffic study presented in its proposal defies
credulity in terms of its suggestion of such a limited
impact.

210 The height of the proposed hotel--over twenty stories
in our pristine agricultural valley--would cause a blight
of major proportions on the landscape of our valley and the
quality of life. A hotel with a lower profile, which
blends into the existing geography might solve the concerns
regarding the aesthetics associated with this concern.

211 Water issues are of prime concern, especially given
recent events at another San Diego Indian Casino project
which had a tremendous negative impact on the water supply
of local residents. Before approval is granted, I would
seriously urge that all local water authorities have given
their recommendations regarding water usage and resources.

Respectfully submitted,


Thomas E. R. Corruiti

Fax: (858) 459-1141

Subj: FW: County comments on Pauma Draft EA/TEIR
Date: 9/21/2007 1:47:18 P.M. Pacific Daylight Time
From: Chantal.Saipe@sdcounty.ca.gov
To: TierraEnv@aol.com
CC: corktoo@aol.com, John.Snyder@sdcounty.ca.gov

Mike,

Please accept these comments on the Pauma Draft EA/TEIR from Ms. Ruth Harber.

Regards,

*Chantal Saipe
Tribal Liaison*

County of San Diego
1600 Pacific Highway, Rm. 212
MS A-6
San Diego, CA 92101
Phone: (619) 685-2542
Fax: (619) 531-5476
chantal.saipe@sdcounty.ca.gov

From: Corktoo@aol.com [mailto:Corktoo@aol.com]
Sent: Friday, September 21, 2007 1:20 PM
To: Saipe, Chantal
Subject: Re: County comments on Pauma Draft EA/TEIR

Sorry, I had forgotten about this! I now realize it's the 21 September and nothing has gone out. Please include the following as my comments to the Pauma Draft EA/TEIR -if it's not too late:

From: Ruth Harber
11132 San Antonio Way
Valley Center, CA 92082

Re: Pauma Draft EA/TEIR

I was given the opportunity to review the EIR for the new construction at the Pauma casino and wish to make the following comments:

I am pleased that the Pauma Band is able to lift itself out of poverty through their casino and they, as well as other Native Americans in San Diego County have, so far as I can see, respected the sensibilities of their neighbors.

I am pleased that the Pauma Band followed the County's request to turn off the strong lights at its casino site to help darken the skies, especially for the Palomar Observatory which is quite close to the casino and hope that the casino and hotel will continue to respect the Dark Skies policy - this benefits everyone.

212 [I have read various comments made by residents of the community of Pauma Valley who feel a high rise hotel at the casino's location is not appropriate. I tend to agree but know that financially, a hotel will put Pauma on par with other casinos in the area. I would, however, suggest that, a compromise might be achieved by reducing the height of the hotel -- and possibly use a larger segment of the Pauma reservation by extending the length of the hotel and reducing its height. A good example would be the former Sands Hotel in Las Vegas which functioned well for many decades with two or three stories.

213 [In these times of severe draught, I would also hope that the Pauma Band would endeavor to conserve water. Drawing water from wells in large quantities might reduce the flow for some of their neighbors. I am confident that this possible problem will be worked out to everyone's satisfaction.

Please consider these remarks when reviewing the plans.

Sincerely,

Ruth Harber

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15

Subj: **Pauma Tribe Casino and Hotel**
Date: 9/21/2007 4:55:34 P.M. Pacific Standard Time
From: Dsdardon
To: TierraEnv

To whom it may concern:

We object to the current plans for the Pauma Tribe's Casino Expansion and Hotel for the following reasons:

- 214 [-- huge influx of traffic cannot be mitigated
- 215 [--insufficient traffic lights along Highway 76 to accommodate current traffic, let alone increased
- 216 [--insufficient water and current drought should require at least a 3 year moratorium until crisis has subsided
- 217 [--safety issues as evidenced by increase in crime in the area since casinos have been built
- 218 [--refusal by Tribe to identify potential well locations
- 219 [--height of the proposed hotel is unacceptable for rural look of this valley and not necessary given the other two reservation hotels within a very short distance.

We will be happy to expand on these basics at another time.

Donald and Darlene Shiley
Post Office Box 207
Pauma Valley, CA 92061

See what's new at AOL.com and Make AOL Your Homepage.

Mr. Michael Baksh,
Tierra Environmental Services,
9915 Business park Avenue, Suite C
San Diego, CA 92131.

220

I understand that the Pauma band of Indians are planning to expand their Casino and hotel with a 23 story Hotel and a 2500 seat outdoor amphitheater and the needed parking area etc, all that development will create a humonges amount of light-pollution, even if the lights will not be pointed at the sky, the hotel windows, the reflected light from buildings and pavement, as well as the increase of traffic head-lights and traffic lights, and will all harm the capacity of Astronomical research of the Palomar Mountain Observatories, as well as the nocturnal wildlife

221

My vote (if I have one) is against this project as planned, for there are already to many Casino's in the Valley Center-Rincon-Pauma Valley and Pala area, which all light pollute the night sky.

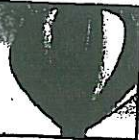
The article I read about the plan did not mention anything about the search lights which are used by the Casino's and can be seen directly at the observatory and surrounding areas, that is a shame.

Peter De Baan

MR. PETER DE BAAN

850 W. Lincoln Ave.

Escondido, CA 92026



Public Hearing
Tuesday, August 28, 2007, 6:00-9:00 p.m.

Pauma Casino and Hotel

Use this slip to provide comments on the Draft Tribal Environmental Impact Report and
Environmental Assessment for the Pauma Casino and Hotel Project.

Name: IRENE SAVARD PO BOX 175

Address: 15481 TOPA RD

Telephone: 760 742-1231

PAUMA VALLEY CA 92061 Email: RENES@GOTSKY.COM

222 Comment(s): Traffic & safety issues are a concern
We are losing people daily on highway 76 -
2 deaths this weekend in the immediate
proximity of Pauma Res. Road.

Public Hearing
Tuesday, August 28, 2007, 6:00-9:00 p.m.

Pauma Casino and Hotel

Use this slip to provide comments on the Draft Tribal Environmental Impact Report and
Environmental Assessment for the Pauma Casino and Hotel Project.

Name: IRENE SAVARD PO BOX 175

Address: 15481 TOPA RD

Telephone: 760 742-1231

PO BOX 175
PAUMA VALLEY, CA 92061 Email: RENES@GOTSKY.COM

223 Comment(s): i low profile hotel would better
suit the area - less can be more! -
Make it unique versus a copy of the
existing hotel in the area. The more
unique would attract customers to stay longer.

Public Hearing
Tuesday, August 28, 2007, 6:00-9:00 p.m.

Pauma Casino and Hotel

Use this slip to provide comments on the Draft Tribal Environmental Impact Report and
Environmental Assessment for the Pauma Casino and Hotel Project.

Name: ALFRED SAVARD RANCHO ESTATES WATER
Address: 15481 TOPA RD Telephone: 760-742-1231
PO BOX 175
PAUMA VALLEY CA 92061 Email: ALFRED@GOTSKY.COM

Comment(s): Concerns about the already low
water table in our water district & that
the 3 wells being ~~but~~ drilled will only
lower it more.

Public Hearing
Tuesday, August 28, 2007, 6:00-9:00 p.m.

Pauma Casino and Hotel

Use this slip to provide comments on the Draft Tribal Environmental Impact Report and
Environmental Assessment for the Pauma Casino and Hotel Project.

Name: Tom Boren

Address: 33123 Mill Creek Rd
Pauma Valley

Telephone: 760 742-1574

Email: BORENTCIS@AOL.COM

225

Comment(s): Something must be done at Cole Grade Rd.
Visibility is poor and speeds are high.
Pauma Reservation road plan seems totally
inadequate.

Public Hearing
Tuesday, August 28, 2007, 6:00-9:00 p.m.

Pauma Casino and Hotel

Use this slip to provide comments on the Draft Tribal Environmental Impact Report and
Environmental Assessment for the Pauma Casino and Hotel Project.

Name: Tom Boren

Address: Pauma Valley

Telephone: _____

Email: _____

226

Comment(s): Why not a second exit
along the Creek - often in East & West
flow of traffic?

Public Hearing
Tuesday, August 28, 2007, 6:00-9:00 p.m.

Pauma Casino and Hotel

Use this slip to provide comments on the Draft Tribal Environmental Impact Report and
Environmental Assessment for the Pauma Casino and Hotel Project.

Name: Donna Buis

Address: P.O. Box 386

Telephone: 742-1904

Pauma Valley, CA 92061

Email: _____

Comment(s): Traffic Safety

Crime Increase

Criminal Element

Water impact

Ruination of Beautiful Valley Scenery

Public Hearing
Tuesday, August 28, 2007, 6:00-9:00 p.m.

Pauma Casino and Hotel

Use this slip to provide comments on the Draft Tribal Environmental Impact Report and
Environmental Assessment for the Pauma Casino and Hotel Project.

Name: Peggy West

Address: P.O. Box 598

Pauma Valley

Telephone: 760-742-3210

Email: pwest91105@aol.com

228 Comment(s): I strenuously object to the proposed
23-story high rise hotel. Such a structure
destroys the beauty of the agricultural valley.
A low-rise series of buildings that blend
in to the landscape is a more favorable
229 alternative. I am also concerned about the
water table.

THINGS OTHER THAN COMMENTS - WATER, FIRE, LIGHT, TRAFFIC, POLLUTION, THEFT, ACCIDENTS, DUST,

Public Hearing
Tuesday, August 28, 2007, 6:00-9:00 p.m.

Pauma Casino and Hotel

Use this slip to provide comments on the Draft Tribal Environmental Impact Report and Environmental Assessment for the Pauma Casino and Hotel Project.

Name: Sue Stockton

Address: P.O. Box 1580

Telephone: 760-742-1462

Pauma Valley 92001

Email: SSSinth valley@ix.net.co

230

Comments: Very concerned about that tower at
a hotel. This is not neighborly friendly.
It does not fit the valley. Be creative - low
elegant, inviting, fit the atmosphere of
our beautiful valley PLEASE.

North County Inland Regional Leadership (ncirl.org)

PO Box 2436
Valley Center, CA 92082

Andrea Lynn Hoch, Legal Affairs Secretary
Office of the Governor, Arnold Schwarzenegger
Sacramento, CA 95814

October 4, 2007

Reference: Your letter dated September 21, 2007 to NIGC and Pauma Band of Mission Indians.
About - Pauma Casino/Hotel Draft Environment Impact Report (EA/DEIR) 7-27-2007

Dear Ms. Hoch,

In response to the September 21, 2007, comments to the proposed Pauma Casino expansion EA/DEIR, the NCIRL would like to alert you to local/regional concerns, notwithstanding our support for the Pauma Tribe's right to develop and expand their casino.

231

The NCIRL is a regional organization in north San Diego County. Our focus is on economic and infrastructure issues that affect our region. We believe the State has an important and fiduciary role to play because it has primary responsibility for SR76, which is the main circulation corridor through the Pala/Pauma area. Our basic concern with this project is the impact on public safety for the region in light of the frequent wild fires which have and will continue to occur. These are not 100 year occurrences, but seem to occur every 5-10 years, not unlike the recent Pine Valley and Julian fires, and can cover thousands of acres. These wild fires usually cause the closure of vital circulation element roads and potentially threaten the lives of residents and casino patrons. Our region has extremely limited circulation alternatives, and the cumulative traffic impacts of developments in the region have created and will create more bad traffic congestion, i.e., LOS F (Level of Service) situations. We implore the implementation of mitigation strategies which will address this life threatening impact. Thank you for mentioning SR76 as a proposed scenic highway. This beautiful 20-mile stretch passes through some of the prettiest mountains in San Diego County and leads to the Palomar Mountain Observatory. Mitigation to preserve this natural resource is key.

232

We support the positions of the County's Valley Center Planning and Pala-Pauma Sponsor Groups. We applaud the efforts of the casino to implement shuttle and bus service for their patrons through the region. We believe that other prudent and cost effective "work arounds" exist short of a four (4) lane highway. We encourage any efforts which will provide opportunity to reduce the number of ADTs (average daily trips) on SR76, and in particular we believe a park and ride transit center needs to be required at I-15 & SR76. Initially, a park and ride for the use of the approximate 6000+ casino employees (Pala 2400, Pauma 1700, and Rincon 2000) and later for patrons.

233

We believe, in this revenue constrained era, that it is unlikely that the State will fund even the current necessary near-term operational improvements that were identified by the recent Reservation Transportation Authority (RTA) and CALTRANS study, and highly unlikely any that any major improvements to SR76 will be funded in the next 20 years. We support and applaud the effort of the RTA and CALTRANS in identifying the short-comings of this vital circulation link.

234

Overall, we support a comprehensive effort to mitigate the impacts on public safety in the region beyond the minimum requirements as stated in the EA/DEIR. We especially support the creation of a collaborative of north San Diego County Tribes, casinos, and other major business developments to create an enduring long-term solution to mitigate the traffic impacts of the major projects along the HWY 76 corridor as the region continues to grow.

Sincerely,



Larry Glavinic & Terry Van Koughnett

Cc: (next page 9 key policy makers)

67 :6 W 01 130 1002

RECEIVED
NATIONAL INDIAN
GAMING COMMISSION

RESPONSES TO COMMENTS

U.S. Fish and Wildlife Service, September 18, 2007

1. A Water Supply Evaluation has been prepared for the Proposed Project by hydrogeologists Dr. Jay Jones of Environmental Navigation Services, Inc. and Mr. Eric Bikis of Bikis Water Consultants, LLC. The Water Supply Evaluation is attached to this EA/TEIR as Appendix H. As detailed in the Water Supply Evaluation, and summarized in several following responses to comments, there will not be an adverse decrease in groundwater due to 1) the infiltration of most treated wastewater generated by the Proposed Project and 2) the use of recycled water to meet future irrigation needs within the project area. The wastewater will be treated to California "Title 22" standards and be suitable for a wide range of uses.

The Project site is located on a broad alluvial fan formed by the discharge of Pauma Creek from Palomar Mountain into the San Luis Rey River Valley. The area, including portions of the Pauma Indian Reservation, is extensively developed for commercial agriculture, and similar agricultural uses are practiced throughout the River Valley. As a result, there are no habitats in the project vicinity suitable for threatened or endangered species. No indirect impacts to threatened or endangered species are expected from the Proposed Project. The USFWS letter concurs with this conclusion on page 2, paragraph 1 of its letter, "No federally listed threatened or endangered species are known from or expected to occur on or adjacent to the project site."

2. The biological resources report (Appendix C) addresses all vegetation communities as well as unvegetated areas (such as developed areas, which are not considered to be of biological resource value). In a discussion of the project site's existing conditions, page 37 of the Draft EA/TEIR addresses the five vegetated areas that have the potential (although in some cases, extremely minor) to provide habitat for wildlife species (disturbed Diegan coastal sage scrub, mule-fat scrub, coastal freshwater marsh, disturbed, and agriculture). These five communities are therefore considered biological resources or at least potential resources. In a discussion of the environmental consequences, page 95 of the EA/TEIR quantifies the vegetated and developed areas that will be impacted, but also states that none of these areas are considered to be sensitive habitats. Impacts will occur to native habitats, but these habitats are so small and/or disturbed, that those impacts will not be significant. Figures 11 and 21 and Table 12 have been revised to reflect the current project area and to indicate that the disturbed sage scrub is disturbed Riversidian sage scrub.
3. This mitigation measure is essentially contained in the Draft EA/TEIR (Section 6.4, Bio 1). However, the Final EA/TEIR hereby incorporates the exact language stated in this comment.
4. Employees will limit their activities, vehicles, equipment, and construction materials to

the project, and native plants will be used to the greatest extent possible in landscaped areas. Species listed on the California Invasive Plant Council's Invasive Plant Inventory will not be used. This mitigation has been added as Mitigation Measure Bio-2 to Sections 4.4 and 6.4.

State Clearinghouse, September 24, 2007

5. Comment noted.

California Department of Transportation (District 11), September 21, 2007

6. The traffic study has generally followed Caltrans guidelines for the preparation of Traffic Impact Studies. Some features have been added to respond to requests from San Diego County to produce a document that more closely resembles the County's traffic impact study guidelines. The study area for the traffic analysis is comprehensive and includes consideration of the SR-76/Valley Center Road intersection and the I-15/SR-76 interchange. Traffic increases from cumulative developments have been incorporated into the traffic analysis. For near term plus project conditions, traffic from cumulative developments has been incorporated using a 3% per year growth factor. For horizon year (2030) conditions, the effects of traffic from cumulative developments have been incorporated using traffic forecasts from the San Diego Association of Governments (SANDAG) regional transportation model. Finally, the traffic impact study was updated in December 2007 to reflect trip generation rates requested by the County of San Diego (see response to comment 93). The Tribe does not agree with the rates requested by the County, but has agreed to use them for purposes of analysis for this project only.
7. The traffic study has indicated the need for a traffic signal at the SR-76/Pauma Reservation Road intersection based on intersection capacity analysis. In addition, the Reservation Transportation Authority's SR-76 East Corridor Study, funded by Caltrans, recommended the following for the intersection of SR-76 and Pauma Reservation Road: "increase the left turn pocket by approximately 60 feet to 300 feet total, lower the roadway to the east and west of the intersection to improve vertical sight distance and provide signalization at the intersection" (Reservation Transportation Authority). If Caltrans still requires a signal warrant analysis in association with the Encroachment Permit needed for improvements to the SR-76 Pauma Reservation Road intersection, this will be conducted as part of the application process and CEQA environmental compliance for that permit..
8. Any improvements proposed with Caltrans right of way will be designed to Caltrans standards and in accordance with the Highway Design Manual. The Tribe and Caltrans will work together to determine a fair share contribution to roadway improvements along SR-76 in a manner similar to that of the Pala Band of Mission Indians as set forth in the Intergovernmental Agreement Between the County of San Diego and the Pala Band of Mission Indians, which was mandated by a Tribal-State compact provision that is identical to the Tribe's Compact with the State of California.

9. Comment noted. It is understood that the RTA Corridor Study does not preclude mitigation on SR-76 due to direct impacts from the Proposed Project. Therefore, to mitigate direct impacts at the SR-76 and Pauma Reservation Road intersection, the Proposed Project will provide payment for those improvements. Specifically, as described in Mitigation Measure T-2 in the EA/TEIR, this payment will include signalizing this intersection and adding an eastbound left turn lane, a westbound right turn lane, and a southbound lane that will provide for a dedicated left turn and dedicated right turn. The Tribe will also make provision for fair share contributions to Caltrans for future improvements along SR-76 between I-15 and Valley Center Road. See response to comment 8. Finally, although traffic associated with the Proposed Project will not significantly affect the SR-76/Cole Grade Road intersection, the Tribe has decided, in response to considerable input by the public, to fund the signalization of this intersection if and when Caltrans determines that this improvement should be made.
10. All lighting (including reflected sunlight) within this project will be placed and/or shielded so as not to be hazardous to vehicles traveling on SR-76. This is required as a mitigation measure in Section 6.1 of the EA/TEIR.
11. All signs visible to traffic on SR-76 will be constructed in compliance with applicable regulations.
12. The casino and hotel development site is located approximately one-third of a mile from SR-76 and separated from it by orchards. Grading on this site will not affect State facilities. The only grading that might affect drainage and runoff to State facilities would be at the SR-76 and Pauma Reservation Road intersection. This grading would only be conducted through the issuance of an Encroachment Permit by Caltrans, as stated in comment 15.
13. Comment noted. Given that other recent improvements along SR-76, such as along Pala Casino and Hotel, have not jeopardized the scenic highway eligibility for SR-76, the minimal widening improvements to SR-76 in the project vicinity at the SR-76/Pauma Reservation Road location will not jeopardize this eligibility. Unlike Pala, which is built immediately outside of the SR-76 right-of-way, Pauma is set back from SR-76 approximately one-third of a mile and is largely obscured by orchards. In any event, these improvements will only be constructed under an Encroachment Permit issued by Caltrans.
14. The Tribe acknowledges it must enter into a cooperative agreement with Caltrans prior to approval of an Encroachment Permit for improvements with Caltrans's right of way, as provided in the Gaming Compact.
15. The need for an Encroachment Permit from Caltrans for improvements located within the SR-76 right of way is acknowledged. This requirement is stated in the EA/TEIR project description (see "Traffic Improvements" in Section 2.1, Proposed Project Alternative).

Office of the Governor, September 21, 2007

16. The current document, including these comments and responses, constitutes the Final EA/TEIR.
17. This comment does not address the adequacy of the Draft EA/TEIR.
18. As a result of public comments received about the aesthetic impact of the height of the hotel, the Tribe examined the feasibility of lowering the hotel height and determined that it could still meet project goals by reducing the hotel from 23 to 19 stories (see Final EA/TEIR), Sections 2.0, 2.1, and 4.1). The Tribe also carefully considered two other lower hotel alternatives: a 13-story hotel tower and a hotel with two towers, one with 9 stories and another with 10 stories. As described in the Final EA/TEIR, the lowest hotel tower that can feasibly accommodate 384 rooms and provide patrons with easy and convenient access to the proposed casino is 13 stories, and as the height decreases, the mass increases disproportionately to height. To reduce the hotel height to lower than 13 stories with reasonable corridor distances and convenient access to the casino would require two hotel structures, with increasing mass and width of such buildings. However, the aesthetic impacts of the 13-story hotel alternative and the hotel alternative made up of a 10-story and a 9-story structure, would have substantially similar aesthetic consequences to that of the 19-story hotel. In addition, those lower alternatives are far more costly. A 13-story structure would add in the order of \$5 million to the project cost, and the two tower alternative would add in the order of \$10 million to the project cost. As described in Section 4.1 of the Final EA/TEIR, the 19-story hotel of the Proposed Project will have an impact that is less than significant upon visual aesthetics. Most views of the project site, for example, are from motor vehicles traveling on SR-76. However, because most of the highway is boarded by vegetation, open views of the Valley are few. The average time for a motor vehicle to drive through the Pauma Valley on SR-76 is between 7 and 8 minutes. Open views of Pauma Valley that include the Project site for motorists driving southeast on SR-76 from the Pala Casino Resort & Spa are available for no more than a few seconds. Open views of the Pauma Valley that include the project site for motorists driving northwest on SR076 from the Rincon Harrah's Casino and Hotel are available for no more than 30 seconds while crossing Pauma Creek. The Proposed Project has been designed to be aesthetically attractive when visible, and guests attracted to the Proposed Project will gain aesthetic value from the views that will be provided from the hotel.

As described in the Final EA/TEIR, the Pauma Valley is not an undisturbed, pristine wilderness of rare scenic value. The Rincon Harrah's casino and hotel, rising 21 stories, is visible in the distance from Adams Drive and other places in the Pauma Valley. Existing views of Pauma Valley from Cole Grade Road are not presently unspoiled, but are affected by roads, residential development, the existing Pauma casino, and agricultural development. While the existing Pauma casino and any expansion of it would be visible from a number of places, the Proposed Project, as designed, would be aesthetically pleasing and, due to the distance from SR-76 and the closest homes, would

not prevent most of the existing long-range views of the valley. The Proposed Project would not have a substantial adverse effect on a scenic vista and will not affect the eligibility of SR-76 as a scenic highway (Note that the Pala Casino and Hotel is constructed immediately outside of the SR-76 right-of-way and is highly visible from this highway). This impact would be less than significant. Outdoor advertising for the Proposed Project along SR-76 will be done in compliance with applicable advertising regulations.

The Tribe has entered into a Memorandum of Understanding (MOU) with the Palomar Observatory in which the Tribe agrees that all proposed outdoor lighting shall conform to the guidelines set forth in San Diego County's Light Pollution Code (Appendix K). In the MOU the Tribe commits to ensure that the design of signage and lighting at the casino will be protective of the night sky. In addition, the Tribe agrees that all exterior lighting associated with the Casino expansion shall be fully-shielded to prevent any direct upward illumination or spill-over of light onto adjacent properties. The intensity of lights, as well as the number, shall be kept to a minimum while allowing for adequate public safety and security. As stated in the MOU (Section III.A.3), whenever possible all exterior lighting shall be low-pressure sodium as is called for in the San Diego County's Light Pollution Code.

19. As stated in the County of San Diego Air Quality Guidelines for Determining Significance, odor issues are very subjective by the nature of odors themselves and their measurements are difficult to quantify. The Guidelines state that "Projects proposing activities that create a point source of odor emissions such as sewage lift stations, restaurants, equestrian centers, etc., may be conditioned to require project design measures, equipment design measures, BMPs, and/or off-site disposal of animal waste." Equipment design measures to avoid substantial odor impact to off-Reservation receptors were provided in the Draft EA/TEIR as Mitigation Measure AQ-1, and are retained as a project condition in the Final EA/TEIR.
20. A Water Supply Evaluation has been prepared for the Proposed Project by hydrogeologists Dr. Jay Jones of Environmental Navigation Services, Inc. (a California-registered Professional Geologist) and Mr. Eric Bikis of Bikis Water Consultants, LLC (hydrologic consultant to the Pauma Tribe since 1993). The Water Supply Evaluation is attached to this EA/TEIR as Appendix H, and portions of it are summarized in Sections 3.8, 3.17, 4.8, and 4.17. The Water Supply Evaluation provides an in-depth analysis of the overall water balance to the Project. The report provides the following:
 - A detailed review of the legal and physical sources of water available to the Pauma Tribe for the Proposed Project. These include surface water from Pauma Creek, groundwater, and future recycled water generated by the Proposed Project.
 - A hydrogeological description of the site setting and the inter-relationship between Pauma Creek, groundwater recharge, and 5,941 acres of the Pauma Reservation.
 - A detailed tabulation of the Proposed Project's water demands.

- An analysis of the overall water balance for the changes associated with the Proposed Project including the change in water demands from the existing uses to those proposed in the Project plan. The Proposed Project wastewater treatment system will generate a new recycled water supply of treated wastewater suitable for a wide range of end uses.
- An assessment of the potential impacts to the nearest permitted off-Reservation groundwater well. The calculations, as detailed in the report, found no significant impact from the Proposed Project. Information for this analysis regarding off-Reservation wells was provided by the County of San Diego Department of Planning and Land Use (DPLU) as part of their Project review.

The Water Supply Evaluation explains, in detail, the determination in the EA/TEIR that increased groundwater use will not have a significant impact on groundwater levels in the area. This is due to mitigation of the increased groundwater demand from increased recharge and the generation and use of recycled water.

21. Please see response to comment 20 regarding recycled water rates for the existing casino and Proposed Project. The new wastewater treatment system is designed to treat the flow stated on page 16 of the Draft EA/TEIR (an average day flow of 227,500 gallons per day and maximum day flow of 284,000 gallons per day, with an additional 250,000-gallon backup storage). It is estimated that approximately 90% of the water utilized by the Proposed Project will be treated such that it can be used as recycled water. Within the project area, recycled water will be used for irrigation of landscaping and replanted groves. The remaining recycled water will be disposed of in two ways: 1) the percolation pond system which will be constructed north of the casino parking lot to percolate up to the maximum day flow, and 2) the existing leach field under the softball field that can percolate nearly the full maximum day flow (279,000 gallons) through subsurface infiltration units. Disposal of recycled water in the leach field will be by gravity flow and will not require pumping. Percolation tests in the area of the pond system and leach field average in the range of between 5 and 40 minutes per inch, based on County of San Diego procedures for percolation tests.
22. Sections 3.8 and 4.8 of the EA/TEIR have been updated to include descriptions of the existing and proposed drainage patterns. The two existing offsite detention basins are not part of the Proposed Project. The project proposes to construct a third detention basin to attenuate 100-year proposed peak flows to below the existing condition peak flows from the project area. Therefore, no significant impacts to the existing detention basins, and consequently downstream Pauma Creek and its receptors, are expected as a result of project development. As described in the EA/TEIR, a Notice of Intent, including a Storm Water Pollution Prevention Plan (SWPPP) that incorporates Best Management Practices (BMPs) for the capture of sand, oil, and other debris flowing off parking lots and roofs before leaving the Project Site, will be submitted to the U.S. EPA at least two days prior to the commencement of construction. FEMA has mapped Pauma Creek floodplain as a Zone A on FIRM Map No. 06073C0528F. Since no work is proposed within the mapped floodplain (see Appendix N which has been added to the Final EA/TEIR), no further

mapping nor FEMA processing is required for the project.

23. The noise analysis has been revised as described in responses to comments 75 through 80. While the Tribe cannot commit to a Monday through Saturday, 7 a.m. to 7 p.m. construction schedule, the nighttime and Sunday construction activities will be selected to avoid significant off-Reservation noise impacts. A few examples of these activities will include interior work, electrical work, exterior painting and plastering, caulking, glazing, brick work, roofing, installation of underground utilities and pipes, exterior framing, sheathing, and landscaping.
24. Section 4.12 of the Final EA/TEIR has been revised to state that even if all the approximately 2,260 new direct and indirect jobs generated by the Proposed Project were to be filled by residents of inland North San Diego County, the population of approximately 12,200 unemployed and underemployed individuals already resident in the area would be a very adequate pool to meet this new employment demand. Thus, the population of the surrounding area is not anticipated to substantially increase as a result of the Proposed Project.
25. The Pauma Fire Department is currently constructing a new fire station facility to house a Type 1 engine and other response units. The Tribe has also hired a Fire Chief to manage the station and its development. The expected completion date of construction is August 2008, well prior to opening of the Proposed Project. The Tribe has also negotiated and will enter into service agreements with Cal Fire Rincon Station (through the Yuima Water District), Pala Fire Department (to replace the existing agreement when gaming operations commence), San Pasqual Fire Department, and Rincon Fire Department. These agreements, provided in Appendix J, ensure adequate backup and redundancy in the event that assistance is required for any fire fighting efforts associated with the Proposed Project. It should be noted that the Pauma Fire Department responds not only to fires on the Reservation, but also to off-Reservation calls; the Fire Department contributed heavily towards fighting the recent October wildfires that devastated much of San Diego County. The Tribe is also signing an agreement with Monte Vista Dispatch and will participate in the San Diego County Master Mutual Aid plan. With regard to emergency medical services, the Tribe has secured “no impact” letters from Palomar Medical Center and Fallbrook Hospital and “will serve” letters from Mercy Air and Mercy Medical Transportation. The Final EA/TEIR has been revised to reflect these developments, and a Fire Analysis study has been added to the document as Appendix J. Please also see response to comment 81.
26. Section 4.13 has been revised to reflect the worst-case estimate of law enforcement demands that will occur under the Proposed Project. The Tribe will enter into a legally-binding MOU with the County of San Diego and will contribute funds for law enforcement services to adequately address any expected increase in crime levels or criminal activity. Impacts on the State’s criminal courts will be addressed by a contribution of funds as part of the MOU with the County of San Diego. The Tribe does not expect decreased services in other areas in order to provide services to the Proposed

Project, rather the contribution through the MOU will provide sufficient resources for the San Diego Sheriff's Department to provide additional resources to the Proposed Project. The Tribe is also currently engaged in discussion with the Oceanside Division of the California Highway Patrol to provide additional services on SR-76 and I-15, particularly for extra enforcement during special events.

27. As discussed in Section 4.12b of the Final EA/TEIR, the unemployed and underemployed population already living in the area is more than adequate and expected to fill the new direct and indirect jobs generated by the Proposed Project. These residents already have children in the existing area schools and, therefore, the Proposed Project will not have significant effects upon the area's schools as there would not be an increased demand for schooling.
28. The Sycamore Landfill has indicated that there will not be a significant impact accepting solid waste from the Proposed Project (Neil Mohr, Personal Communication). In addition, the Proposed Project is developing a recycling program that is expected to reduce the total amount of solid waste sent to the landfill by 70-80%. Please also see response to comment 83.
29. As described in Sections 3.14 and 4.14 of the EA/TEIR, most visitors to the casino and hotel will be adults seeking recreation at the facility. To the extent that these visitors also seek outdoor recreation in the area, there are numerous opportunities available including nearby hiking, camping, fishing, boating, bicycling, equestrian use, nature study, photography, and astronomy. There will also not be significant demands placed on recreational activities by employees or their children, as most of these individuals already live in the area.
30. Sections 3.15 and 4.15 of the Final EA/TEIR have been revised to provide evidence documented by Rea and Parker (2007; provided in Appendix L) that numerous outlets for gambling already exist in the area including the State lottery, Internet gambling, card rooms, horse racing, and sports books, and that casino gambling does not in and of itself seem to be a major contributor to the number of problem and pathological gamblers among the population.
31. Wastewater treatment system flows are based on water demands for the Proposed Project. Most of the potable water used by the Proposed Project will become wastewater flow and be treated to California Title 22 standards to generate recycled water. This water will be used for irrigation within the project area. The wastewater treatment system has been designed to accommodate flows in excess of the maximum day flow to avoid spilling wastewater. No wastewater will flow into Pauma Creek. The wastewater pump station is designed to pump a flow rate of 605,000 gallons per day. The pump station will be equipped with a backup power supply to prevent loss of service from a power shortage. Also, the pump station will be equipped with three pumps to provide a standby pump in the event a pump fails. Additionally, the treatment plant will be equipped with an emergency storage tank with a capacity of approximately 250,000

gallons for use when incoming flows exceed the treatment facility's treatment capacity. In the event that the effluent pump station cannot accommodate flows coming out of the treatment system, excess flow will gravity feed to the leach field described in response to comment 21.

32. San Diego Gas and Electric has provided a "will serve" letter, which is attached to the Final EA/TEIR in Appendix L. Several propane providers are located in the vicinity of the Proposed Project and will compete to provide gas required by the project.
33. Section 5 of the Final EA/TEIR has been revised to include additional discussion of cumulative impacts to Noise, Population and Housing, and Public Services, none of which rise to a level of significance. The discussion of cumulative impacts for all other issues is considered to be adequate. See also response to comment 154 on growth inducement.
34. Supplementary information has been added to this Final EA/TEIR and supports the conclusion that the Proposed Project will not cause significant degradation of the human environment. The Proposed Project will not result in any significant impacts that cannot be mitigated below levels of significance.
35. This comment does not address the adequacy of the EA/TEIR. EAs are often lengthy documents. See *Surfrider Foundation v. Dalton* 989 F.Supp. 1309, 1318 (S.D.Cal. 1998) (referring to final EA, a 375-plus page document").

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36. The existing casino will cease operations prior to the opening of the new casino, at which time it will be demolished.
37. As described in the Notice of Preparation, the existing casino contains approximately 37,100 square feet of gaming area and 1,090 slot machines.
38. The Draft EA/TEIR described the new casino as containing 110,000 square feet, with 83,100 square feet of gaming area and 26,900 square feet of other uses (e.g., circulation, public amenities, cage/cashier, players reward area, kiosks, etc.). At the time the Traffic Impact Analysis was completed in March 2007, a larger casino with 171,000 square feet containing 90,600 square feet of gaming area was contemplated.

It should be noted that the casino size was reduced again after public review of the Draft EA/TEIR. Specifically, the casino is now designed to be 102,372 square feet, with 73,583 square feet of gaming area and 28,789 square feet of other uses. The original Traffic Report was conservative in its analysis. The Traffic Impact Analysis has been updated to reflect the reduced size of the casino and gaming area and uses a conservative methodology to determine traffic impacts of the Proposed Project. See Traffic Impact Analysis Appendix F, Sections 1.2, 3.1, and Table 3.1.

39. When the Draft EA/TEIR was published, it correctly described the parking as consisting of a 1,500 space parking garage and 2,400 surface parking spaces. The Proposed Project was initially planning for a 2,000 space parking garage and 2,500 surface parking spaces when the Traffic Impact Analysis was completed. The reduction of 600 parking spaces reflected the reduction of gaming area as described in response to comment 38. It should be noted that the surface parking has since been decreased by another 50 spaces, and so there will actually be 2,350 surface spaces as described in the Final EA/TEIR.
40. The Draft EA/TEIR adequately described the Multi-Purpose Events Center as being used for banquets, concerts, weddings, and meetings. The 19,383-square-foot Events Center is an indoor facility that will be used during day and night-time hours.
41. Comment noted. The existing casino contains none of the facilities described under the Proposed Project other than gaming area, a restaurant, a small administration and back-of-house facility, and surface parking.
42. The alternatives analysis is considered adequate. Section 2.5 adequately compares the environmental impacts of the Proposed Project and other project alternatives. The Expanded Casino site would be the same as that for the Proposed Project. Based on public input related to the height of the hotel tower initially proposed, a modified Proposed Project with a smaller hotel tower is described in the Final EA/TEIR, with additional alternatives analyses provide in Sections 2.0, 2.1, and 4.1. The alternative locations described under Section 2.4 do not need to be mapped, as these locations were eliminated from consideration after initially being identified.
43. Please see response to comment 18.
44. The Tribe is consulting with Palomar Observatory staff on lighting issues to minimize light pollution on dark skies both during project construction and operation. As a result of that consultation, the Tribe is entering into a Memorandum of Understanding (MOU) with the Palomar Observatory in which the Tribe agrees that all proposed outdoor lighting shall conform to the guidelines set forth in the San Diego County's Light Pollution Code (Appendix K). In the MOU the Tribe commits to ensure that the design of signage and lighting at the casino will be protective of the night sky. In addition, the Tribe agreed that all exterior lighting associated with the Proposed Project shall be fully-shielded to prevent any direct upward illumination or spill-over of light onto adjacent properties. As stated in the MOU (Section III.A.3), wherever possible, all exterior lighting shall be low-pressure sodium as is called for in the County's Light Pollution Code. The Final EA/TEIR has been revised to reflect these commitments.
45. Please see response to comment 44.
46. No night-time outdoor events will occur under the Proposed Project.
47. Upward-directed search lights will not be used during normal operation of the Proposed

Project. On the rare occasion when a special event will occur with the potential of outdoor lighting to impact the Palomar Observatory, the Tribe pursuant to the MOU will provide the Observatory with thirty (30) days written notice in the effort to minimize the chance of disrupting Observatory research.

48. Comment noted. The Tribe owns and cultivates major orchards to the north, northwest, and south of the Proposed Project and, as a major producer of agricultural commodities, will not be complaining to other farmers regarding their pesticide use, noise, dust, odors, or other farming practices. The existing casino is compatible with agricultural uses in the area, and the Proposed Project will also be compatible. In fact, some nearby farmers have requested the use of treated wastewater from the Proposed Project to irrigate their groves. This possibility will be explored in the future between the Tribe and interested parties.
49. Comment noted. The USDA Farmland Conversion Impact Rating, Form AD-1006, was completed by the U.S. Department of Agriculture's Natural Resources Conservation Service, the Federal agency responsible for conducting these analyses under the Farmland Preservation Policy Act. The analysis shows that the conversion of farmland under the Proposed Project will be well below the threshold of significance. The small increase in project site size from 65.7 acres described in the Draft EA/TEIR to 69.1 acres in the Final EA/TEIR will not affect the finding that the conversion of farmland to other uses is not a significant impact. In fact, several additional acres of citrus will be replanted under the Proposed Project as described in the Final EA/TEIR.
50. The analyses of RAQS conformity, exposure to diesel particulates, and cumulative impacts have been enhanced for the Final EA/TEIR.
51. The screening level thresholds have been revised to add the County daily thresholds. Impacts have been assessed against these thresholds using URBEMIS 2007. The tons per year thresholds are specified by the Clean Air Act General Conformity Rule and have been retained.
52. A project that does not conform to all of the assumptions of the SANDAG growth projections may not necessarily conflict with the RAQS. The dominant focus of the RAQS is stationary sources, and small variations in mobile source emissions would have a very small influence on the RAQS. Further, contrary to the comment that states that a conflict with the RAQS would have a significant impact on air quality, the County's significance guidelines state that a conflict might have a potentially significant impact. The SD APCD has not established guidelines for mobile source emissions that would conflict with the RAQS. Therefore, the USEPA guidelines for potential conflict with the SIP are a starting point. If projected emissions of ROG or NOx approached the USEPA guidelines, there may be a case for conflict with the RAQS because the state standard is more restrictive than the federal standard. However, with projected emissions at less than 15 percent of the USEPA standard, it is concluded that there would be no significant impact.

53. The principal default values that were changed in the URBEMIS 2002 model were to set the project construction and operations' years to conform with the proposed project and to set the trip generation values to be consistent with the project traffic analysis. Similar changes to defaults were made in the URBEMIS 2007 model used for the emissions estimates in the Final EA/TEIR. The air quality section of the Final EA/TEIR shows emissions values before and after mitigation.
54. The EA/TEIR has been revised to include a discussion of exposure of off-site receptors to diesel PM. There are no elements of the Proposed Project that would attract heavy trucks or a proportion of diesel-engine driven vehicles greater than at present. A small fraction of the trips generated by the project would be diesel vehicles. The California Air Resources Board conservatively indicates a traffic volume of 100,000 vehicles per day (ADT) as a threshold for concern for residents near a major roadway. The Federal Highway Administration states that there is a low potential for Mobile Source Air Toxic effects at traffic volumes less than 140,000 to 150,000 ADT. The project traffic analysis shows that SR-76 traffic volumes from east of the project site to I-15 would range from approximately 8,500 to 19,000 in the near term plus project case, and from 15,000 to 29,000 in the 2030 plus project scenario. These volumes are clearly and substantially below the thresholds of concern, and further analysis is not required.
55. The discussion of cumulative construction impacts within a one-half mile radius has been eliminated from the EA/TEIR.
56. The Pauma Elementary School is approximately one and one-half mile southwest of the project site. Valley Center High School is more than four miles southwest of the project site. Neither school is within one-half mile of SR-76. These schools would not be sensitive air quality receptors. There was no inconsistency in the distances to sensitive receptors given on pages 35 and 91 of the Draft EA/TEIR. The distances of 450 to 550 feet relate to the boundaries of the casino property; the distance of 1,150 feet, as stated on page 91, is the distance to the nearest point of new project construction.
57. The impact areas are described and quantified by habitat type in Section 4.4 and Table 12.
58. Due to the low levels of rainfall for the past two years, an exact analysis of species composition and diversity could not be conducted. However, because areas immediately south of the project area are considered by the County to be Riversidian sage scrub, the area reported as Diegan coastal sage scrub is now reported as Riversidian sage scrub.
59. Additional language regarding potential raptor nesting on-site has been added to Section 4.4a..
60. According to Mr. Dave Bittner, local expert on eagles and Project Director, San Diego Golden Eagle Survey Wildlife Research Institute: "The Pauma Indian Casino is in an area that is already under intensive agriculture management. The new hotel is in that part

of the valley no longer used by the remaining Golden Eagles. Golden Eagles nest within a couple miles of the Casino on US Forest service land. The Golden Eagles no longer forage in the valley due to the extensive agriculture (primarily groves and palm ranches). Therefore, it is our considered input that further development in the valley bottom, even a hotel, will have no significant impact on the remaining Golden Eagles” (Dave Bittner, Personal Communication, January 20, 2008). Bald eagle is also not known to occur in this portion of the County.

61. Off-Reservation impacts associated with noise and dust during construction, stormwater runoff, and night lighting are addressed in the EA/TEIR and appropriate mitigation measures are provided where relevant.
62. Improvements to the SR-76/Pauma Reservation Road that extend along SR-76 will require an Encroachment Permit from Caltrans. The exact area of potential effect for these improvements will be established by Caltrans when the design for the improvements is completed. At that time, an analysis of biological resource impacts will be conducted as part of the environmental review required for Caltrans’ compliance with the California Environmental Quality Act (CEQA). Those impacts may or may not include coast live oak trees. In any case, mitigation for any impacts to listed biological species will be provided to Caltrans’ satisfaction prior to issuance of the Encroachment Permit.
63. The Tribe has submitted a copy of the confidential cultural resources to the County. It should be noted that the NIGC has consulted with the State Historic Preservation Officer (SHPO) as required by the National Historic Preservation Act, and that the SHPO has concurred with the NIGC that no adverse effects will occur to historic properties under the Proposed Project.
64. The Storm Water Pollution Prevention Plan (SWPPP) and Storm Water Management Plan (SWMP) will include the construction and post-construction Best Management Practices to be employed for erosion control on-site. Section 3.6 of the EA/TEIR has been revised to include this analysis.
65. The Lyall Roberts Airstrip and the Pauma Valley Airpark are private airports that consist of dirt landing strips. Both landing strips are less than 4,000 feet in length and are low-activity runways with less than 2,000 takeoffs and landings per year. The Lyall Roberts Airstrip is located on the opposite side of Pauma Creek from the Proposed Project, about 1,200 feet away; and the Pauma Valley Airpark is located south of Cole Grade Road and west of SR-76, about one mile south of the Proposed Project (see EA/TEIR, Figure 2, “landing strips”). These landing strips are not covered by Airport Land Use Compatibility Plans (ALUCPs) or Comprehensive Land Use Compatibility Plans (CLUPs). Lacking ALUCPs and CLUPs, the Airport Influence Area (AIA) is conservatively estimated by the County of San Diego to be one mile (see Guidelines for Determining Significance, Land Use and Environment Group, July 30, 2007). The Proposed Project is located outside of the Safety Compatibility Zones for both airstrips

(refer to California Airport Land Use Planning Handbook, January 2002, Figure 9K), and no adverse hazards associated with these airstrips are expected.

The Proposed Project's architect, Hnedak Bobo Group (HBG), has consulted with the Federal Aviation Administration (FAA) pursuant to Federal Aviation Regulation Part 77. HBG submitted forty cases identifying each corner of the Proposed Project to the FAA for an aeronautical study under the provisions of 49 U.S.C., Section 44718 and, where applicable, Title 14 of the Code of Federal Regulations, Part 77. The FAA rendered a "Determination of No Hazard to Air Navigation" for all 40 cases (see example and list of locations in Appendix P). Of the 40 cases, 10 cases will require that the structure be marked and/or lighted in accordance with FAA Advisory circular 70/7460-1 K Change 2, Obstruction Marking and Lighting, red lights - Chapters r, 5 (Red), and 12.

66. No changes to the Pauma Reservation's surface water rights or diversions from Pauma Creek are proposed with development of the Proposed Project. Stormwater flows from the project will enter the two existing detention basins prior to entering Pauma Creek, as they are currently managed under existing conditions. No significant impacts to Pauma Creek are expected as a result of the Proposed Project.
67. A third detention basin is proposed for the project, and is designed to detain the 100-year design flows from the project area. The basin will be lined with an impermeable liner since it is located at the toe of a slope. This liner will not allow for infiltration. The proposed basin does not divert runoff from Pauma Creek, but collects and detains onsite flows before draining into the existing detention basins. The proposed detention basin will drain completely within 72 hours. No significant impacts to Pauma Creek are expected as result of project development.
68. The SWMP will address the pollutants of concern and propose site design, source control and treatment control BMPs to address these pollutants. The site design and treatment control BMPs will include an infiltration trench, vegetated swales, and a baffle box system. Section 4.8d of the EA/TEIR has been updated to include a discussion of expected/potential pollutants and mitigation measures proposed.
- 69-74. For general reference please refer to the responses to comments 16 and 17, and the technical report entitled "Water Supply Evaluation: Proposed Pauma Casino and Hotel, Pauma Indian Reservation" attached as Appendix H to the Final EA/TEIR.

The Water Supply Evaluation provides additional information specific to the decreased acreage of the commercial groves being cleared for the Proposed Project and the use of recycled water for irrigation of the replanted groves within the project area. The net increase in groundwater pumping is not expected to cause any significant drawdown in off-Reservation wells, as detailed in the Water Supply Evaluation report. Recycled water and increased groundwater infiltration help to mitigate the potential effects of increased demands.

The Proposed Project's water demands have been fully detailed in the Water Supply Evaluation to explain the water demand. The water supply analysis is based on the water balances of the existing casino and the proposed Casino and Hotel. The revised analysis has determined that the Project groundwater demand is 294 acre-feet per year, an increase from the initial estimate of 255 acre-feet per year. The anticipated net increase demand on groundwater is 90 acre-feet per year, equivalent to approximately 24 acres of irrigated citrus groves. Specific design elements, as described in this comment, have been incorporated into the analysis.

At a meeting held with the County on September 24, 2007, data related to San Diego County comment 34a were provided for review. Consistent with state law, the Pauma Tribe regards their well data as confidential. However, the general characteristics of the water supply wells and groundwater quality on Pauma Reservation are summarized in the Water Supply Evaluation.

Physical well interference testing (comment 34b) was not done; instead an analysis was done using a range of hydraulic parameters and the Theis equation (that calculates the change in water levels over time and with distance from a well) to calculate the potential change in groundwater levels associated with groundwater use. This calculation takes into account the locations and overall effects of both groundwater discharge and recharge. This analysis, detailed in the report, found that average water level impacts after 5 years were negligible and, after 10 years, were expected to be less than 2 feet on the nearest permitted well to the reservation, and to diminish with distance. Hydraulic parameters used in the analysis were determined from prior well testing conducted on the Reservation and from prior water resources analyses. While off-Reservation groundwater use also has the potential to impact water levels both on and off of the Project area, off-Reservation pumping was not included in the analysis since there are effectively no controls on off-Reservation agricultural groundwater uses (which are exempt from the County's Groundwater Ordinance). As illustrated by the water balance and supported by the Theis equation interference analysis conclusions, groundwater used for the Project is directly replenished by groundwater recharge that will occur from the percolation ponds, leach fields and landscape and replanted groves irrigation within the Project area. The incremental increase in groundwater pumping, balanced with the increased recharge, is not expected to have a significant effect on the aquifer. No physical testing was deemed necessary based on this conclusion.

A groundwater monitoring and mitigation program has not been developed for the Project because uncontrolled off-Reservation groundwater use is likely to affect groundwater levels in the area independent of the Project. The San Luis Rey River Valley includes numerous commercial growers and there are no known reporting requirements or controls on off-Reservation groundwater use for the commercial purposes. As noted in the County Groundwater ordinance, groundwater use for commercial irrigation is exempt from regulation (section 67.702). Therefore, the implementation of water level criteria as described in this comment would occur in a setting where off-Reservation groundwater use is likely to affect water levels

independent of on-Reservation actions.

As stated previously, the proposed water use plan provides adequate mitigation for potential impacts to groundwater, specifically through the use of recycled water for irrigation of replanted groves and landscaping and increased infiltration of treated wastewater of the Proposed Project in leach fields and percolation ponds.

75. The data in Table 8 of the Draft EA/TEIR contained calculated estimated noise levels, and have been replaced with measured existing noise levels. Both the Draft and Final EA/TEIRs noise sections acknowledge that casino traffic may occur proportionally more in the evening and nighttime hours than non-casino traffic, and therefore the casino traffic may weigh more in calculating CNEL. It is also noted that there is considerable existing casino traffic on SR-76, and the additional traffic from the proposed casino expansion would have less of an influence on CNEL on this road than in an area where there are no casinos.
76. The existing noise levels near SR-76 estimated in the Draft EA/TEIR may have been understated using the data from the traffic report and estimated speeds. Noise measurement data have been added to the Final EA/TEIR. Off-Reservation traffic noise impacts were not understated. Conversely, the noise impacts are likely overestimated due to volume, speed, and mix factors described in the Final EA/TEIR.
77. A discussion of Section 36.404 of the Noise Ordinance has been added to the Final EA/TEIR. The most conservative noise levels from the Section 36.404 limits have been used as standards in setting performance requirements for the wastewater treatment and emergency generator facilities.
78. The noise from the project related traffic has been adequately analyzed. Please see response to comment 76. Analysis of the individual residences adjacent to SR-76 is not necessary. Additional data and discussion have been added to Section 5.1.11 of the Final EA/TEIR.
79. Construction noise has been adequately analyzed. The general discussion of the noisiest equipment is applicable to the grading phases of construction. Demolition and roadway improvements are minor elements of the project and would have little influence on noise impacts. The County guidelines duration criteria apply to extended operations of impact equipment and materials handling equipment, typical of mining and aggregate processing activities. The Proposed Project would be a typical building construction project and would not include extended use of impact or materials handling equipment.
80. Please see the responses to comments 75 through 80. No further noise study is needed.
81. A Fire Analysis report has recently been prepared for the Proposed Project by Mr. Andy Wells, a professional Fire Consultant and the Fire Marshall for the Pechanga Fire Department. The findings of this report are summarized in the Final EA/TEIR, and the

report is attached as Appendix J. The report addresses in considerable detail the issues raised in comments a-k, and concludes that all necessary fire suppression response capabilities will be in place prior to operation of the Proposed Project.

82. The Tribe is currently engaged with the County of San Diego to determine the amount of funding necessary to mitigate the off-Reservation impact to law enforcement. Contributions will also be provided to mitigate County law enforcement resource impacts associated with criminal arrestee detentions, prosecutions, and probations. Please also see response to comment 26 and Final EA/TEIR Section 4.13.
83. The Proposed Project will recycle solid waste during demolition, construction, and operation. Consultation with local solid waste/recycling providers (EDCO, CR&R) has indicated that the Proposed Project will meet the San Diego County Recycling Ordinances, including the 90% recycling requirement for inert materials.
84. Please see response to comment 30.
85. Section 4.15 of the Final EA/TEIR has been revised to include additional language on gambling addiction. The Proposed Project will continue efforts to prevent problem gambling, including the continuance of self-exclusion policies. The Proposed Project will also continue to train employees to identify patrons who may have problem gambling characteristics, will inform patrons where to obtain help for gambling problems, provide informational brochures, and continue contributing to the California State Office of Problem Gambling.
86. Please see responses to comments 87-107.
87. The Tribe is supportive of public transit, park and ride facilities, casino customer shuttles (vans/buses), employee car pooling incentives, and employee shuttles. The potential benefits of the Tribal Transportation Demand Management (TDM) program are also acknowledged and participation in this program is not inconsistent with the analysis and recommendations of the traffic impact analysis. Substitution of TDM improvements for other traffic mitigation measures such as improvements to existing roads is not being pursued because of the difficulty in providing documentation of the quantifiable benefits of TDM-related traffic reductions. However, it is agreed that a TDM program and transit improvements could be beneficial to the Proposed Project and it is the intent of the Tribe to implement measures similar to those recommended in the comment, and to work cooperatively with NCTD, Caltrans, and SANDAG to improve transportation along SR-76.
88. Please see response to comment 38.
89. It is agreed that additional coordination with Caltrans is needed. Please see responses to comments 6-15.

90. It is agreed that additional coordination with Caltrans is needed to determine fair share contributions and/or specific roadway improvements along SR-76. Please see response to comment 9.
91. Key review agencies for the traffic analysis include the Pauma Tribe, the National Indian Gaming Commission, Caltrans, and San Diego County, as well as others. In order to provide a traffic analysis that meets the requirements of all these agencies, it was not considered possible to exactly follow the County's Significance Criteria/Traffic Impact Guidelines. It should be noted that SR-76 is a state road under Caltrans' jurisdiction, and not a County road.
92. The differences between the size of the gaming area in the Draft EA/TEIR and Traffic Impact Analysis are acknowledged; please see response to comment 38. The Traffic Impact Analysis and the Final EA have been revised to reflect a smaller gaming area of 73,583 square feet.
93. While the trip generation value of 100 daily trips per 1,000 square feet of gaming area is used in some cases, it is also typical for trip generation rates of gaming casinos to have a high level of variability requiring a need for local data. The value of 61.9 daily trips per 1,000 square feet of gaming area used in the traffic impact analysis was based on actual trip generation counts of the nearby Pala Casino. Since the Pauma casino is a similar type of casino resort in a similar location, it is expected that the trip generation rates would also be similar.

In addition, the March 2006 *Traffic Impact Analysis* was based on 90,600 square feet of gaming area, which at that time represented an increase of 53,500 square feet of new gaming area over the existing Pauma Casino. As indicated above, ADTs for the Proposed Project were calculated by using a traffic generation rate of 61.9 ADT per 1,000 square feet based on actual counts of the Pala Casino of new area, plus 3 ADT per hotel room (400 rooms). This resulted in an estimate of 4,512 ADT.

Since preparation of the March 2006 report, the gaming area was reduced to 83,100 square feet as described in the Draft EA/TEIR. The gaming area has since been further reduced to 73,583 square feet, which represents an increase of 36,483 square feet of new gaming area over the existing casino. The number of hotel rooms remains at 400. Although the Tribe is confident about the original traffic generation rate of 61.9 ADT per 1,000 square feet of new area, it has agreed, at the County of San Diego's request, to use a generation rate of 100 ADT per 1,000 square feet of gaming area. Using this generation rate, and 3 ADT per hotel room, a total of 4,848 project ADT are estimated. This estimate will result in the same impacts as the previous estimate of 4,512 ADT. The December 2007 *Traffic Impact Analysis* and the Final EA/TEIR (Section 4.16) have been revised to reflect this change.

94. Since events of any significant size would only be held outside normal AM and PM peak traffic hours, no additional trip generation is considered necessary to incorporate the

presence of this facility.

95. Project traffic increases on Cole Grade Road and Valley Center Road are documented in the traffic analysis. Cole Grade Road is expected to operate at Level of Service (LOS) C in all future scenarios, and no improvements are considered necessary. Valley Center road is expected to operate at LOS C through near term plus project conditions, and no improvements are considered necessary. Under future with project conditions, Valley Center Road is expected to operate at LOS E, but the project's traffic contribution is less than 1% of total future traffic and is considered to be insignificant. The trip generation analysis is considered to be appropriate and no additional calculations are considered to be necessary.
96. In case of any apparent disagreement between the mitigation recommended in the traffic analysis and the mitigation recommended in the EA/TEIR, the mitigation recommended in the EA/TEIR is considered to apply. In the case of this comment, the discussion in the traffic analysis is not intended to preclude fair share contributions. Please also see response to comment 8.
97. Many traffic impact analyses include an analysis of AM peak hour conditions. However, at gaming casinos the traffic impacts in the PM peak hour are much larger than the traffic impacts in the AM peak hour because the levels of activity at casinos are much higher in the afternoons and evenings than in the mornings. Therefore, any traffic impacts of AM peak hour casino traffic would be less than the impacts of PM peak hour casino traffic, and any mitigation measures recommended to mitigate PM peak hour casino traffic would also mitigate AM peak hour casino traffic.
98. The traffic impacts of the project on both SR-76 and the SR-76/I-15 interchange have been analyzed. This analysis is considered to meet the needs of the Congestion Management Program (CMP) requirements for these facilities. It should be noted that both Caltrans and SANDAG submitted comments on the EA/TEIR and neither agency requested additional information to satisfy CMP requirements.
99. During the traffic impact study process, consideration was given to whether it would be necessary to analyze the I-15 mainline segments and ramps near the I-15/SR-76 interchange and detailed analysis was not considered to be necessary. However, the I-15 segments in the area of the SR/76 interchange are not expected to experience any operation problems through near term plus project conditions and no improvements are considered to be necessary. Under future with project conditions, the project's traffic contribution to I-15 is expected to be less than 1% of total future traffic and is considered to be insignificant.
100. Please see response to comment 7.
101. It is acknowledged that conceptual striping should be a requirement for a traffic impact study provided under County traffic impact study guidelines. However, other agencies

typically deal with this issue in later stages of project development. Since the traffic impact analysis was prepared to meet the needs of multiple agencies, conceptual signing and striping plans were not included. Please also see response to comment 91.

102. Since the only intersection that will be significantly impacted, but mitigated, is the SR-76/Pauma Reservation Road intersection, and since the major intersections in the project vicinity are widely spaced, there is no need to conduct an LOS analysis for the roadway segments between them.
103. In this case, the recommendation is for the applicant to work with Caltrans to determine specific mitigation measures and/or fair share contributions. When this process has been concluded, the project's traffic impacts will be mitigated to insignificant levels. It is not considered possible to adequately document this process in an LOS table, but further documentation will be available in later stages of the project development process. Please see response to comment 9.
104. Please see response to comment 9.
105. The project's traffic contribution to the segment of SR-76 west of I-15 has been documented in the traffic impact analysis. SANDAG has analyzed future conditions on this roadway and is in the process of implementing roadway improvements that will accommodate the anticipated traffic. Therefore there is not a need to conduct a separate analysis of potential improvements as part of the Pauma Casino and Hotel project.
106. The traffic impact analysis is recommending that the applicant work with Caltrans to mitigate traffic impacts along SR-76. The traffic analysis has not indicated any significant traffic impacts along County roadways and is therefore not recommending any mitigation for County roadways. Please also see responses to comments 9 and 103.
107. The request is acknowledged and the deletion is considered to be incorporated by reference by this response.
108. Additional details of the wastewater treatment system are provided in the Final EA/TEIR under the Wastewater Treatment section of Section 3.17 Utilities and Service Systems. Please also see responses to comments 21 and 31.
109. The amount of wastewater estimated to be generated by the Proposed Project is considered to be accurate. While the 90% recovery rate of all water used by the Proposed Project as wastewater influent may exceed industry standards, it is nevertheless considered to be a conservative estimate for this project by the project's engineering experts for wastewater treatment. Please also see responses to comments 21 and 31.
110. Please see response to comment 20, 21, and 31.
111. Please see response to comment 20, 21, and 31.

- 112. Please see response to comment 20, 21, and 31.
- 113. Section 6.0 adequately indicates when mitigation measures will be implemented.
- 114. Please see response to comment 33.
- 115. Comment noted.
- 116. Comment noted. Representatives of the Proposed Project have met on numerous occasions with the County to discuss a wide range of environmental issues, and will continue to do so through negotiation of the required Tribal/State off-Reservation MOU.

SANDAG, September 21, 2007

- 117. Please see response to comment 38.
- 118. Please see response to comment 93 regarding trip generation. Traffic forecasts for 2030 were based on the currently-adopted Regional Transportation Plan and the corresponding regional transportation model, rather than the Draft RTP, which is expected to be adopted later this year. Preliminary forecasts from the Draft RTP process are not considered to be applicable, partly because the RTP is still a draft and partly because the traffic forecasts have not yet been analyzed for accuracy and applicability in the study area.
- 119. Please see response to comment 9.
- 120. Please see response to comment 87.
- 121. The Tribe welcomes the opportunity to meet with SANDAG and discuss traffic issues.

Pala Pauma Sponsor Group, September 13, 2007

- 122. As described in the EA/TEIR, the Proposed Project is committed to signalizing the SR-76/Pauma Reservation Road intersection. Any changes to existing drainage at this location would be conducted under an Encroachment Permit issued by Caltrans. The proposal to develop a pedestrian pathway long between SR-76 and the casino resort will be taken under serious consideration by the Tribe. Parking along Pauma Reservation Road will not be allowed.
- 123. Please see response to comment 9 regarding the Tribe's offer to fund the signalization of the SR-76/Cole Grade Road intersection based upon input from the Pala Pauma Sponsor Group and general public.
- 124. The Tribe is committed to exploring the development and implementation of various public transit options.

- 125. As described in the EA/TEIR, the Proposed Project is committed to providing fair share contributions for improvements along SR-76 between I-15 and Valley Center Road. Please see response to comment 8 regarding design standards within Caltrans right of way.
- 126. The Tribe will contribute funds for police and emergency protection services, as well as programs for problem gambling, in manners to be specified in the MOU negotiated with the County. The Tribe is committed to participate in the exploration of ways to provide for emergency access/fire access along SR-76. The Proposed Project complies with FAA Guidelines.
- 127. Please see responses to comments 44 and 45.
- 128. The Tribe is committed to conserve groundwater to the extent possible, and is also interested in exploring the proposal to provide treated wastewater to neighboring farmers for citrus irrigation. Surface parking will be paved with asphalt but drainage will be designed for runoff to flow towards permeable locations.
- 129. Please see response to comment 18 regarding the height of the hotel tower. Attractive landscaping will be installed throughout the resort.

Valley Center Community Planning Group, September 19, 2007

- 130. The Tribe is committed to participate in the exploration of ways to provide for emergency access/fire access along SR-76.
- 131. The Tribe is committed to work closely with Caltrans and others in the long-term effort to improve traffic and safety along SR-76.
- 132. Please see response to comment 124.

North County Transit District, September 12, 2007

- 133. Please see response to comment 122.
- 134. Please see response to comment 87.
- 135. Please see response to comment 124.
- 136. The Tribe is currently working to incorporate a centrally located internal bus stop within the Proposed Project site.
- 137. Comment noted. The Tribe is committed to developing and implementing public transit options.

138. The Tribe welcomes the opportunity to continue discussions with NCTD and discuss transportation issues.

Palomar Observatory, September 14, 2007

139. The Tribe has appreciated the opportunity to consult recently with Palomar Observatory staff on lighting issues, and to have developed a MOU to minimize light pollution on dark skies. The MOU will govern the Tribe and the Observatory's relationship upon commencement of operations. Please also see response to comment 44.
140. The Tribe will strive to properly shield night lighting during construction to minimize scattering, glare, and illumination of the sky. Please also see response to comment 44.

San Luis Rey Municipal Water District, September 19, 2007

141. The long-term water balance is considered in the Water Supply Evaluation, included as Appendix H in the Final EA/TEIR. The evaluation is specific to Project-related changes in water use. Off-Reservation groundwater use by local commercial agricultural users or by the Pala Tribe may impact groundwater conditions (see the Cumulative Impacts section of the EA/TEIR).
142. Additional analysis of the water supply has been conducted and is summarized in the water Supply Evaluation included as Appendix H to the Final EA/TEIR. As discussed in this evaluation and previous responses (see response to comments 20 and 21), an analysis of potential drawdown to area wells found no significant effects after 10 years. Therefore, no significant effects to the aquifer are anticipated from the Proposed Project.

The potential for imported water to be available to the Pauma Reservation is noted in the report; however, the Proposed Project does not rely on any future imported water for its water supply. The Proposed Project does rely on the maximization of the use of recycled water to support the overall water demands and to provide for groundwater recharge.

143. The Proposed Project will not discharge wastewater off-Reservation. All wastewater will be treated to California "Title 22" standards and either reused for the Proposed Project or infiltrated on-Reservation via leach fields and percolation ponds. The Final EA/TEIR includes a detailed discussion of the proposed wastewater treatment system.
144. Please see response to comments 141-143.

Palomar Mountain Planning Organization, September 7, 2007

145. Comment noted. The Final EA/TEIR adequately addresses traffic impacts and mitigation. The Tribe is committed to work closely with Caltrans, the North County Transit District, SANDAG, and others in the long-term effort to improve traffic and safety along SR-76.

Endangered Habitats League, September 21, 2007

146. Comment noted. Both the Draft EA/TEIR and this Final EA/TEIR are in compliance with NEPA and the Tribal-State Gaming Compact.
147. The EA/TEIR addresses direct effects of the Proposed Project in Section 4. The EA/TEIR addresses cumulative impacts, indirect effects, and growth inducing effects in Section 5.
148. The EA/TEIR addresses the matters required by the Compact, including any significant effects on the environment (Section 4); any significant effects on the environment that cannot be avoided if the project is implemented (Section 5.2); any significant impact on the environment that would be irreversible if the project is implemented (Section 5.4); mitigation measures proposed to minimize significant effects on the environment (Section 6.0); any direct growth-inducing impacts of the Project (Section 5); and whether the proposed mitigation would be effective to substantially reduce the potential significant effects on the environment (Section 6.0).
149. The EA/TEIR concludes that all impacts will be less than significant with the implementation of its recommended mitigation measures.
150. Please see responses to comments 93 and 145.
151. Please see responses to comments 93 and 145.
152. Please see response to comment 18.
153. The installation of new wells does reflect the increase in groundwater use for the Proposed Project. Groundwater will be used to meet project demands because it is more consistent and reliable than surface water flows. Imported water may be available in the future, but is not considered as a potential water source for the Proposed Project. The net increase of groundwater demands of 90 acre-feet per year (equivalent to the irrigation demand of 24 acres of citrus groves) is not anticipated to have a significant effect on off-Reservation groundwater levels. This is based on a Theis calculation that incorporates aquifer characteristics, pumping, and recharge, as shown in the Water Supply Evaluation attached as Appendix H to the Final EA/TEIR.
154. The analysis of growth inducement has been expanded to indicate that construction and operation of the Proposed Project will not cause an increase in population or need for housing in the area. Also, the increase in direct and indirect employment is not likely to generate the development of ancillary services in the area, and the influx of new patrons is not likely to generate any ancillary business development or the extension of water, sewer, or any other utility or service to an off-Reservation location. Please also see Section 5.4 of the Final EA/TEIR, and response to comment 33 regarding cumulative impacts.

155. This Final EA/TEIR is consistent with NEPA and Tribal-State Compact requirements and can be approved by the NIGC and Tribe, respectively.

Robert G. Helm, August 10, 2007

156. Please see responses to comments 44 and 45.

Robert Buchheim, August 12, 2007

157. Please see responses to comments 44 and 45.

Alfred and Irene Savard, August 15, 2007

158. Please see responses to comments 44 and 45.
159. There currently is no plan for a secondary entrance/exit to the casino. If a different entrance/exit is planned in the future, such plans would be subject to additional environmental review at that time. Signs will clearly direct patrons both to the parking facilities and back to SR-76. Mitigation Measure T-4 has been added to require that all vendors use Pauma Reservation Road for access to and from the casino and hotel site.

Irene and Alfred Savard, September 3, 2007

160. Please see response to comment 18.

Joseph Patronik, September 16, 2007

161. Please see response to comment 145.
162. Please see responses to comment 18.
163. Regarding noise, please see response to comment 23. Regarding light pollution, please see responses to comments 44 and 45.
164. The Proposed Project does not include an outdoor amphitheater.
165. Please see responses to comments 44 and 45.
166. Please see responses to comments 20 and 21.
167. Please see responses to comments 145.

Elaine M. Overman, September 18, 2007

168. Please see response to comment 145.

- 169. Please see response to comment 26.
- 170. Please see response to comment 18.
- 171. A biological resources report was prepared and is attached to the EA/TEIR as Appendix C.
- 172. This comment does not address the adequacy of the EA/TEIR.
- 173. Comment noted.

John Garrett, September 18, 2007

- 174. Please see responses to comments 44 and 45.

Tamara L. Crispi, September 18, 2007

- 175. Comment noted. Please see response to comment 9. The Tribe is committed to fund the signalization of both the SR-76/Pauma Reservation Road and SR-76/Cole Grade Road intersections, although the Cole Grade Road signalization is not required as a mitigation measure..
- 176. Please see response to comment 18. The Tribe intends to construct an attractive hotel tower and not one that resembles a refrigerator.

Charles Mathews, September 18, 2007

- 177. The EA/TEIR adequately addresses the off-Reservation impacts of the Proposed Project. Please see responses to comments 18 regarding visual/aesthetics, 93 regarding traffic, and 20 and 21 regarding water.
- 178. Comment noted.
- 179. Comment noted. The EA/TEIR's conclusions do not rely upon out-of-date single-point parametric assumptions of doubtful certainty. Rather, its conclusions are based on the analyses of experts in their respective fields.
- 180. The EA/TEIR considers a range of reasonable alternatives. Please see Sections 2.1-2.5. Please also see response to comment 18.
- 181. Traffic increases from cumulative developments have been incorporated into the traffic analysis. For near term plus project conditions, traffic from cumulative developments has been incorporated using a 3% per year growth factor. This is considered to be accurate for the documentation of the traffic impacts of the project for the purposes of the EA/TEIR. The intent of the traffic impact analysis was to recommend that the applicant

and Caltrans work together to determine a fair share contribution to roadway improvements along SR-76. If Caltrans considers the traffic forecasts in the RTA study of SR-76 to be more accurate for the purposes of determining fair share contributions and mitigation measures than the traffic forecasts from the EA/TEIR, it would be recommended that the traffic forecasts in the RTA study be incorporated into the discussions with Caltrans. It is recommended that these discussions take place as part of the CEQA environmental compliance conducted in association with the Encroachment Permit needed for improvements to the SR-76/Pauma Reservation Road intersection.

182. Project trip generation has been calculated using standard traffic engineering methodologies that are based on gaming area and hotel rooms, rather than employees and parking spaces. With respect to the event center, see response to comment 94.
183. In the case of traffic discrepancies between intersections, the traffic movements shown for each intersection are intended to represent the most accurate assessment of conditions at the individual intersection. Traffic forecasts are sometimes adjusted to achieve greater internal consistency. This additional step is not considered to be necessary in this case, because it would not change the results of the study. The errors referred to in this comment are minor and there is no need for corrections in order to provide an analysis that is adequate for environmental compliance.
184. Due to relatively low levels of traffic on Pauma Reservation Road northeast of the project site, any analysis of the project's internal access to Pauma Reservation Road might be appropriate in future stages of project development in coordination with Caltrans.
185. Consideration of trucks was incorporated into the capacity analysis of this intersection using an assumption that 2% of total traffic would be heavy trucks. Bus traffic at this intersection is expected to be relatively insignificant from an intersection capacity analysis point of view.
186. This type of analysis is not typical in traffic impact analysis and is not considered necessary in this case. Certain conservative assumptions have been built into the process that allow for some variability in the input parameters.
187. Comment noted. It should be noted that fair share contributions will be made following negotiations with Caltrans in association with improvements proposed along SR-76 between I-15 and Valley Center Road.
188. Please see responses to comments 20 and 21.
189. Please see responses to comments 44 and 45.
190. Please see response to comment 18.

- 191. Please see response to comment 65.
- 192. Please see responses to comments 9 and 187.
- 193. Comment noted.
- 194. Comment noted. The alternatives analysis is regarded as adequate.
- 195. Please see responses to comments 6-9 and 93.
- 196. Please see responses to comments 6-9 and 93.
- 197. Please see responses to comments 6-9 and 93.
- 198. Please see responses to comments 6-9 and 93.
- 199. Please see responses to comments 6-9 and 93.
- 200. Please see responses to comments 6-9 and 93.
- 201. Please see responses to comments 6-9 and 93.
- 202. The existing casino and Proposed Project water demands, depletions, and recharge are detailed in the Water Supply Evaluation attached as Appendix H to the Final EA/TEIR. This is also included in the responses to comments 20 and 21.
- 203. Please see responses to comments 44 and 45.
- 204. Please see response to comment 18.
- 205. Please see response to comment 65.
- 206. Please see responses to comments 6-9 and 93.
- 207. Comment noted. The Final EA/TEIR provides adequate mitigation to reduce significant or potentially significant impacts below levels of significance.
- 208. Comment noted. The Proposed Project has been designed in such a manner as to allow the Tribe to be competitive with other similar nearby casino resorts.

Thomas B. K. Cerruti, September 20, 2007

- 209. Please see responses to comments 6-9 and 93
- 210. Please see responses to comments 44 and 45.

211. Please see responses to comments 20 and 21.

Ruth Harber, September 21, 2007

212. Please see response to comment 18.

213. The Tribe will endeavor to conserve water.

Donald and Darlene Shiley

214. Please see response to comment 6-9 and 93.

215. The Tribe is proposing to fund the signalization of the SR-76/Pauma Reservation Road intersection as part of the Proposed Project.

216. Comment noted. Please see responses to comments 20 and 21.

217. Please see response to comment 26.

218. Please see response to comment 20.

219. Please see responses to comments 44 and 45.

Peter De Baan, no date

220. Regarding the hotel height, please see response to comment 18. An outdoor amphitheater is not planned by the Proposed Project. Regarding night lighting, please see responses to comments 44 and 45.

221. Please see response to comment 47.

Irene Savard, August 28, 2007

222. Please see responses to comments 6-9 and 93.

223. Please see response to 18.

Alfred Savard, August 28, 2007

224. Please see responses to comments 20 and 21.

Tom Borent, August 28, 2007

225. Please see response to comment 9.

226. The most feasible access to the Proposed Project is currently via Pauma Reservation Road.

Donna Buls, August 28, 2007

227. Please see responses to comments 6-9 and 93 regarding traffic, 26 regarding crime, 20 and 21 regarding water, and 18 regarding visual aesthetics.

Peggy West, August 28, 2007

228. Please see response to comment 18.
229. Please see responses to comments 20 and 21.

Sue Stockton, August 28, 2007

230. Please see response to comment 18.

North County Inland Regional Leadership, October 4, 2007

231. Please see response to comment 25 regarding fire protection, 6-9 and 93 regarding traffic, and 18 regarding visual/aesthetics..
232. Please see response to comment 87.
233. Comment noted.
234. Please see response to comment 145.